

United States
Circuit Court of Appeals
For the Ninth Circuit.

GIDEON M. FREEMAN,
Plaintiff in Error,
VS.
THE UNITED STATES OF AMERICA,
Defendant in Error.

Transcript of Record.

Upon Writ of Error to the United States District Court of the
Northern District of California, First Division.

Filed

DEC 27 1916

F. D. Menckton,
Clerk.



United States
Circuit Court of Appeals
For the Ninth Circuit.

GIDEON M. FREEMAN,

Plaintiff in Error,

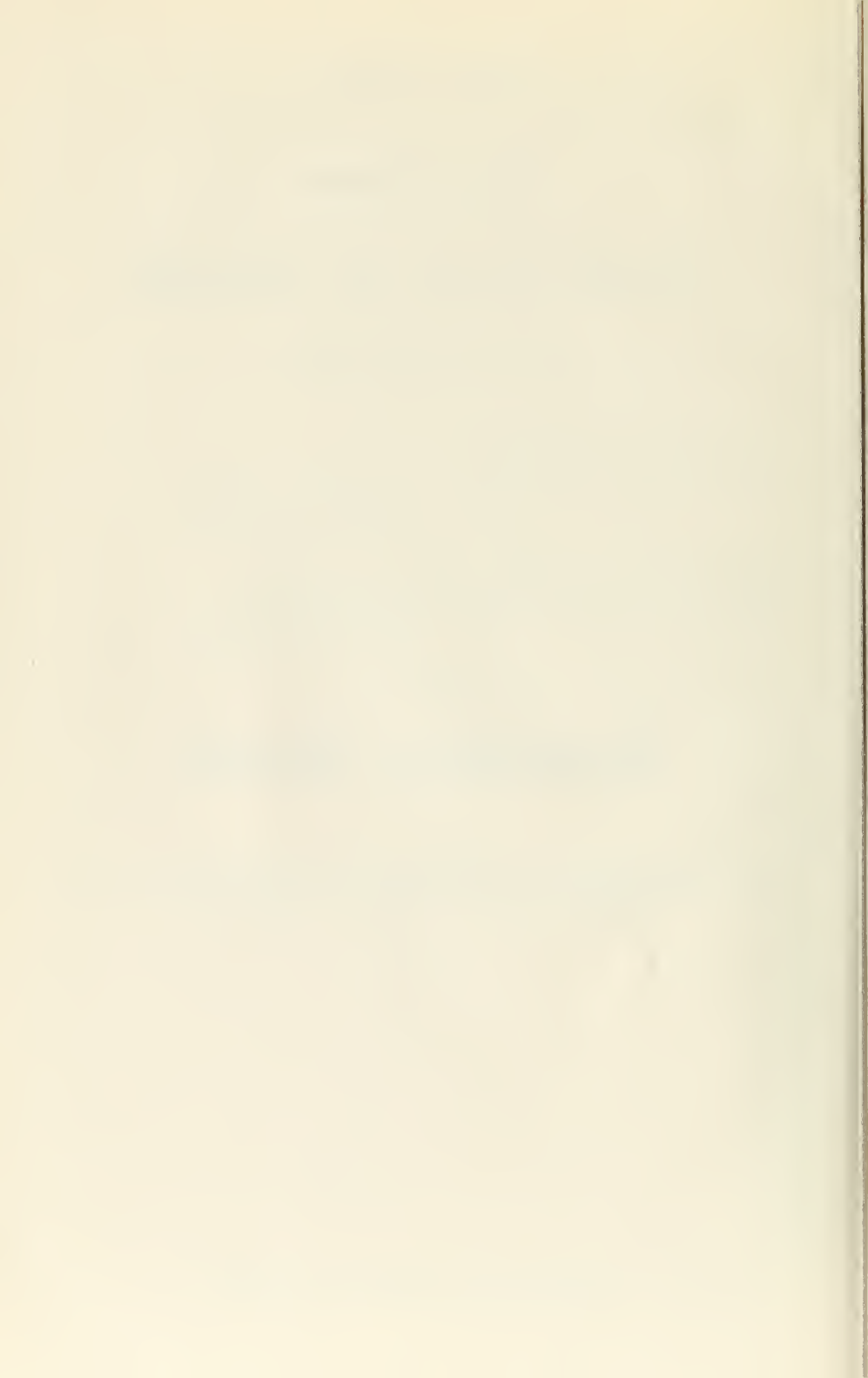
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[Clerk's Note: When deemed likely to be of an important nature, errors or doubtful matters appearing in the original certified record are printed literally in *italic*; and, likewise, cancelled matter appearing in the original certified record is printed and cancelled herein accordingly. When possible, an omission from the text is indicated by printing in *italic* the two words between which the omission seems to occur.]

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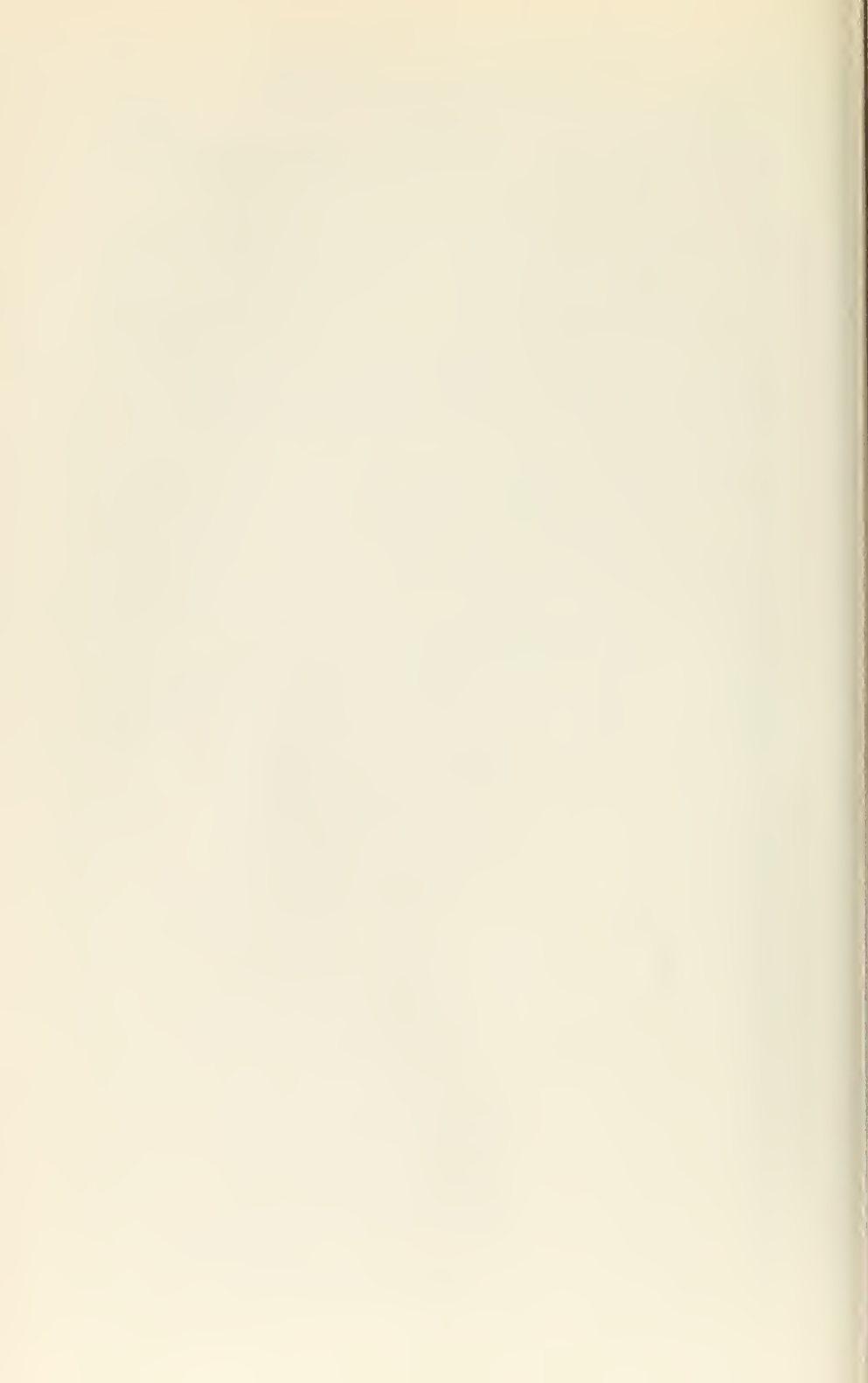
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Names and Addresses of Attorneys of Record.
CHARLES H. FAIRALL, Esq., KNIGHT & HEG-
GERTY,
Attorneys for Defendant and Plaintiff in
Error.

UNITED STATES OF AMERICA.
*District Court of the United States, Northern Dis-
trict of California.*

Clerk's Office.

No. 5686.

DR. GIDEON M. FREEMAN,
Plff. in Error,
vs.

THE UNITED STATES OF AMERICA,
Deft. in Error.

Praeipie for Transcript of Record.

To the Clerk of Said Court:

Sir: Please prepare copies of following papers
and certify to same to be filed with the Clerk of the
U. S. Circuit Court of Appeals, Ninth Circuit, to
compose transcript on appeal:

Judgment-roll.

Bill of Exceptions.

Bond on Appeal.

Bond for Costs.

Order Allowing Writ of Error.

Assignment of Errors.

Petition for Writ of Error.

Order Enlarging Time.

This Praeceptum .

KNIGHT & HEGGERTY,
Attorneys for Plff. in Error.

[Endorsed]: Filed Nov. 19, 1915. W .B. Maling,
Clerk. By C. W. Calbreath, Deputy Clerk. [1*]

(INDICTMENT.)

Violation Sec. 215, C. C. U. S.

*In the District Court of the United States, in and for
the Northern District of California, First Division.*

At a stated term of said court, begun and holden at the City and County of San Francisco, within and for the State and Northern District of California, on the first Monday of March, in the year of our Lord one thousand nine hundred and fifteen.

The Grand Jurors of the United States of America, within and for the State and District aforesaid, on their oaths present: THAT

DR. GIDEON M. FREEMAN, *alias* PAUL ALLEN, doing business at No. 986 Market Street, in the City and County of San Francisco, in the State and Northern District of California, under the name of Dr. Jordan, L. J. Jordan Co. and Jordan's Museum of Anatomy, a corporation, organized and existing under and by virtue of the laws of the State of California, late of the said State and District, here-

*Page-number appearing at foot of page of original certified Transcript of Record.

tofore, to wit, on or about the 15th day of May, in the year of our Lord one thousand nine hundred and twelve, in the City and County of San Francisco, State and Northern District of California, within the jurisdiction of this Court, and under the guise and name of the said Jordan's Museum of Anatomy, devised a certain scheme or artifice to defraud, or for obtaining money or property by means of certain false pretenses, representations or promise to be effected by means of the postoffice establishment of the United States, which said scheme or artifice is in substance and effect as follows:

That he, the said Dr. Gideon M. Freeman, *alias* Paul Allen, should place or cause to be placed, advertisements in certain newspapers of general circulation published within the [2] United States, or in letters, booklets or other prints, wherein it should be set forth in substance or effect that the said Dr. Jordan was a physician practicing in the City and County of San Francisco, State of California, and specifically qualified to treat private diseases of men, that is to say, among other diseases, syphilis (blood poison), gonorrhea, and diseases and affections arising therefrom, lost vitality, bladder, kidney, prostatic and urinary diseases, and had cured numerous persons afflicted with said diseases, and by means of said advertisements, letters, booklets or other prints, he, the said Dr. Gideon M. Freeman, *alias* Paul Allen, then and there intended to cause or induce John Bammer, J. P. Millspaugh, George R. Alberts, Anson Ashford, and John Caroway, and divers other persons whose names are to the Grand

Jurors aforesaid, unknown, and the public generally, to communicate and open correspondence with Dr. Jordan, by means of the postoffice establishment of the United States relative to their real or supposed ailments; that when said persons should communicate with him, the said Dr. Jordan, whom he, the said Dr. Gideon M. Freeman, *alias* Paul Allen, then and there well knew was not a doctor or person existing in life or in fact during all of the times set forth in this indictment, by the means aforesaid, that the said Dr. Jordan should write or communicate with said persons by means of letters placed in the said postoffice establishment of the United States, and in substance and effect should state to each of such persons, with intent to defraud each and all of said persons, irrespective of the symptoms theretofore communicated as aforesaid to him, and even in cases where the symptoms indicated health rather than disease, and without any proper knowledge of the real condition of said persons, that they, the said persons, were afflicted with diseases which he, the [3] said Dr. Jordan, could cure, and that he would furnish treatments for the cure of such alleged diseases upon the payment to him of certain sums of money; and that by means of said letters so placed as aforesaid, by the said Dr. Gideon M. Freeman, *alias* Paul Allen, he, then and there intended to cause or induce all of said persons so communicating with the said Dr. Jordan as aforesaid, to deliver or send to the address of Dr. Jordan, sums of money for the purpose of procuring from him (as said persons had been led to believe),

medicine or treatments skillfully or properly designed or prepared for the cure or alleviation of the diseases with which said persons were afflicted, or had been so induced by said Dr. Gideon M. Freeman, *alias* Paul Allen, to believe themselves to be afflicted, which said sums of money, so sent or delivered to the said Dr. Jordan as aforesaid, he, the said Dr. Gideon M. Freeman, *alias* Paul Allen, should fraudulently convert or appropriate to his own use, and in return therefor, should send or deliver to each of said persons so sending or delivering to him sums of money, certain medicine or treatment not skillfully or properly designed or prepared, and of little or no value, for the cure of the aforesaid persons, Dr. Gideon M. Freeman, *alias* Paul Allen, then and there having no proper or professional knowledge of such persons' conditions, or whether such persons were diseased or not, or whether or not said purported medicine or treatment was capable of benefitting said persons, as he, the said Dr. Gideon M. Freeman, *alias* Paul Allen, then and there well knew.

And he, the said Dr. Gideon M. Freeman, *alias* Paul Allen, on the second day of July, in the year of our Lord one thousand nine hundred and twelve, at the City and County of San Francisco, in the State and Northern District of California, for the purpose [4] of executing said scheme and artifice or in attempting so to do, unlawfully, feloniously, knowingly and willfully, did place or cause to be placed in the postoffice establishment of the United States at San Francisco, in the State and

District aforesaid, or in a station, street box or letter-box thereof, an authorized depository for mail matter, to be sent or delivered by the postoffice establishment of the United States, a certain letter upon which the postage had been fully prepaid, and addressed to John Bammer, Colusa, Calif., a copy of said letter being as follows, to wit:

"Office of
Dr. L. J. Jordan,
986 Market St.
Opposite Sixth
Hours: 9 A. M. to 5 P. M.
and 7 to 9 P. M.
Sundays, 10 to 12 A. M.

Private Address:
Paul Allen,
986 Market Street.

Jordan's Museum of
Anatomy.
Established 50 years,
Diseases of Men.

San Francisco, Cal., July 2, 1912.

Mr. John Bammer,

Box 800, Colusa, Cal.

Dear Sir and Friend:—

I have your return of the question blank and test papers. You should have written me by letter also—giving me any further information you deem necessary that I should know. From the data you sent me it is my judgment that you have an excess of amorphous urates and phosphates, indicating wasted energy, and anemia neuresthenia, at the expense of some of the functions of the body. You require and demand treatment to place you on a par with your fellow men. You will find the testicles are weak and flabby and not manufacturing healthy spermatozoa. There is no evidence of Bright's Disease, or proof of Diabetes, altho an overworked kidney may lead to both. You will find mucuous stings flocculi or sediment in the urine indicating prostatic inflammation at the neck of the bladder, with the consequent loss of vitality and absence of

complete sexual satisfaction required by all male animals of health.

Your case is a complicated one requiring careful and scientific treatment on the part of any physician who treats you. If you give your case into my hands I must have honest co-operation on your part, following to the letter my instructions, which are perfectly simple.

I don't profess to say that your case is an easy one to handle. But you can secure very material assistance. My treatment will create new blood, new muscle and new secretions, promote circulation, build up and maintain new nerve cells and fibres. The old tissue will be removed and new substituted in it's place. The weakened and run down system will be built up and invigorated, and injected with spirit and life—such as should be found in every man who cares to give the proper attention to his health and the maintenance of his vigor and manhood power.

I will take your case and furnish the medicine required for \$10.00 a month. This is fair method of payment to you, although [5] I do not know your financial circumstances. You need not hesitate to write me fully as everything is kept confidential. All medicines are sent out in plain packages, and no one knows from whom they come.

I would like your reply by return mail whether you wish to take up the treatment or not. By writing me your intentions, I will know what to do about further correspondence. I do not like to write unnecessary letters to any one, as they might go

astray, or fall into some else's hands and cause you embarrassment; therefore, reply at once.

If you could come down and see me—I would be glad to have you do so. Please let me know if you can come, and at what time. I would like to talk with you, as things can be explained better by a personal interview than in a letter.

With kind regards, and best wishes, and awaiting your early reply, I remain,

Very Sincerely yours,

Dr. L. J. JORDAN.

Dict. X.”

AGAINST the peace and dignity of the United States of America, and contrary to the form of the statute of the said United States of America in such case made and provided.

SECOND COUNT.

And the Grand Jurors aforesaid, on their oaths aforesaid, do further present: THAT

DR. GIDEON M. FREEMEN alias PAUL ALLEN, doing business at No. 986 Market Street, in the City and County of San Francisco, in the State and Northern District of California, under the name of Dr. Jordan, L. J. Jordan Co. and Jordan's Museum of Anatomy, a corporation organized and existing under and by virtue of the laws of the State of California, late of the said State and District, heretofore, to wit, on or about the fifteenth day of May in the year of our Lord, one thousand nine hundred and twelve, in the City and County of San Francisco, State and Northern District of California, within the jurisdiction of this Court, and under the

guise and name of the said Jordan's Museum of Anatomy, devised a certain scheme or artifice to defraud, or for obtaining money or property by means of certain false pretenses, representations, or promises to be effected by means of the post-office [6] establishment of the United States, which said scheme or artifice is in substance and effect as follows:

That he, the said Dr. Gideon M. Freeman, *alias* Paul Allen, should place or cause to be placed, advertisements in certain newspapers of general circulation published within the United States, or in letters, booklets, or other prints, wherein it should be set forth in substance or effect that the said Dr. Jordan was a physician practicing in the City and County of San Francisco, State of California, and specifically qualified to treat private, diseases of men, that is to say, among other diseases, syphilis (blood poison), gonorrhea, and diseases and affections arising therefrom, lost vitality, bladder, kidney, prostatic and urinary diseases, and had cured numerous persons afflicted with said diseases, and by means of said advertisements, letters, booklets or other prints, he, the said Dr. Gideon M. Freeman, *alias* Paul Allen, then and there intended to cause or induce John Bammer, J. P. Millspaugh, George R. Alberts, Anson Ashford, and John Caroway, and divers other persons whose names are to the Grand Jurors aforesaid, unknown, and the public generally, to communicate and open correspondence with Dr. Jordan, by means of the postoffice establishment of the United States rela-

tive to their real or supposed ailments; that when said persons should communicate with him, the said Dr. Jordan, whom he, the said Dr. Gideon M. Freeman, *alias* Paul Allen, then and there well knew was not a doctor or person existing in life or in fact during all of the times set forth in this indictment, by the means aforesaid, that the said Dr. Jordan should write or communicate with said persons by means of letters placed in the said post-office establishment of the United States, and in substance and effect should state to each of such persons, with intent to defraud each and all of said persons, irrespective of [7] the symptoms theretofore communicated as aforesaid to him, and even in cases where the symptoms indicated health rather than disease, and without any proper knowledge of the real condition of said persons, that they, the said persons, were afflicted with diseases which he, the said Dr. Jordan, could cure and that he would furnish treatments for the cure of such alleged diseases upon the payment to him of certain sums of money; and that by means of said letters so placed as aforesaid, by the said Dr. Gideon M. Freeman, *alias* Paul Allen, be then and there intended to cause or induce all of said persons so communicating with the said Dr. Jordan as aforesaid, to deliver or send to the address of Dr. Jordan, sums of money for the purpose of procuring from him (as said persons had been led to believe), medicine or treatments skilfully or properly designed or prepared for the cure or alleviation of the diseases with which said persons were afflicted,

or had been so induced by said Dr. Gideon M. Freeman, *alias* Paul Allen, to believe themselves to be afflicted, which said sums of money, so sent or delivered to the said Dr. Jordan as aforesaid, he, the said Dr. Gideon M. Freeman, *alias* Paul Allen, should fraudulently convert or appropriate to his own use, and in return therefor, should send or deliver to each of said persons so sending or delivering to him sums of money, certain medicine or treatment not skilfully or properly designed or prepared, and of little or no value, for the cure of the aforesaid persons, Dr. Gideon M. Freeman, *alias* Paul Allen, then and there having no proper or professional knowledge of such persons' conditions, or whether such persons were diseased or not, or whether or not said purported medicine or treatment was capable of benefiting said persons, as he, the said Dr. Gideon M. Freeman, *alias* Paul Allen, then and there well knew. [8]

And he, the said Dr. Gideon M. Freeman, *alias* Paul Allen, on the twenty-fifth day of February in the year of our Lord, one thousand nine hundred and thirteen, at the City and County of San Francisco, in the State and Northern District of California, for the purpose of executing said scheme and artifice, or in attempting so to do, unlawfully, feloniously, knowingly and wilfully, did place or cause to be placed in the postoffice establishment of the United States at San Francisco, in the State and District aforesaid, or in a station, street box or letter-box thereof, an authorized depository for mail matter, to be sent or delivered by the post-

office establishment of the United States, a certain letter upon which the postage had been fully prepaid, and addressed to J. P. Millspaugh, Cherry Creek, Nevada, a copy of which said letter being as follows, to wit:

"Office of
Dr. L. J. Jordan,
986 Market St.
Opposite Sixth
Hours: 9 A. M. to 5 P. M.
and 7 to 9 P. M.
Sundays, 10 to 12 A. M.

Private Address:
Paul Allen,
986 Market Street.

Jordan's Museum of
Anatomy.
Established 50 years,
Diseases of Men.

San Francisco, Cal. Feb. 25, 1913.

Mr. J. P. Millspaugh,
Cherry Creek, Nevada.

Dear Sir:—

This is in reply to yours of recent date. The chemical test papers and question blank were carefully and scientifically considered. From this data it is my judgment that you have an excess of amorphous urates and phosphates, indicating wasted energy, anemia neuresthenia at the expense of some of the functions of the body. You require and demand treatment to place you on par with your fellow men.

You will find the testicles are weak and flabby and are not manufacturing healthy spermatozoa. There is no evidence of BRIGHT'S DISEASE or proof of DIABETES, although an overworked kidney may lead to both. You will find mucuous strings flocculi or sediment in the urine indicating prostatic inflammation at the neck of the bladder, with the consequent loss of vitality and absence of complete sexual satisfaction absolutely required by all male animals of health.

Your case is a complicated one requiring careful and scientific treatment on the part of any physician who takes upon himself the responsibility of treating you. If you give your case into my hands I must have honest co-operation on your part, following to the letter my instructions. [9]

I will take your case and furnish all medicines required in the course of treatment for \$47.50 cash, or, if you wish to pay on time \$17.50 down and \$10.00 monthly; time required, about three or four months. If you accept either of these propositions, which are very liberal, kindly remit the amount with which to start in, and continue to do so until cured. Sexual neuresthenia results from the violation of the laws of health so impairing the system that it ceases to perform its functions.

The victim is awakened by dreams, the result of this disturbance; this is continued, usually occurring at shorter intervals often accompanied by erotic dreams, until the organ becomes incapable of performing its functions, producing a long line of reflex irritations and complications.

You cannot afford to lose your stamina or to be a failure in life. Low spirits never bother the healthy. No one can be happy or successful unless well. There is latent power in every one—all it wants is to be awakened and cared for.

Expecting an early reply, I am,

Yours very truly,

Dr. L. J. JORDAN.

Dict. by F. L."

AGAINST the peace and dignity of the United States of America, and contrary to the form of the

statute of the said United States of America in such case made and provided.

THIRD COUNT.

And the Grand Jurors aforesaid, on their oaths aforesaid, do further present: THAT

Dr. GIDEON M. FREEMAN, *alias* PAUL ALLEN, doing business at No. 986 Market Street, in the City and County of San Francisco, in the State and Northern District of California, under the name of Dr. Jordan, L. J. Jordan Co. and Jordan's Museum of Anatomy, a corporation organized and existing under and by virtue of the laws of the State of California, late of the said State and District, heretofore, to wit, on or about the fifteenth day of May in the year of our Lord, one thousand nine hundred and twelve, in the City and County of San Francisco, State and Northern District of California, within the jurisdiction of this Court, and under the guise and name of the said Jordan's Museum of Anatomy, devised a certain scheme or artifice to defraud, or for obtaining money or property by means of certain false pretenses, representations or promises to be effected by means of the [10] postoffice establishment of the United States which said scheme or article is in substance and effect as follows:

That he, the said Dr. Gideon M. Freeman *alias* Paul Allen, should place or cause to be placed, advertisements in certain newspapers of general circulation published within the United States, or in letters, booklets or other prints, wherein it should be set forth in substance or effect that the said Dr.

Jordan was a physician practicing in the City and County of San Francisco, State of California, and specifically qualified to treat private diseases of men, that is to say, among other diseases, syphilis (blood poison), gonorrhea, and diseases and affections arising therefrom, lost vitality, bladder, kidney, prostatic and urinary diseases, and had cured numerous persons afflicted with said diseases, and by means of said advertisements, letters, booklets or other prints, he, the said Dr. Gideon M. Freeman, *alias* Paul Allen, then and there intended to cause or induce John Bammer, J. P. Millspaugh, George R. Alberts, Anson Ashford, and John Caroway, and divers other persons whose names are to the Grand Jurors aforesaid, unknown, and the public generally, to communicate and open correspondence with Dr. Jordan, by means of the postoffice establishment of the United States relative to their real or supposed ailments; that when said persons should communicate with him, the said Dr. Jordan, whom he, the said Dr. Gideon M. Freeman, *alias* Paul Allen, then and there well knew was not a doctor or person existing in life or in fact during all the times set forth in this indictment, by the means aforesaid, that the said Dr. Jordan should write or communicate with said persons by means of letters placed in the said postoffice establishment of the United States, and in substance and effect should state to each of such persons, with intent to defraud each and all of said persons, irrespective [11] of the symptoms theretofore communicated as aforesaid to him, and even in cases where the symptoms indicated health rather

than disease, and without any proper knowledge of the real condition of said persons, that they, the said persons, were afflicted with diseases which he, the said Dr. Jordan, could cure, and that he would furnish treatments for the cure of such alleged diseases upon the payment to him of certain sums of money; and that by means of said letters so placed as aforesaid, by the said Dr. Gideon M. Freeman, *alias* Paul Allen, he then and there intended to cause or induce all of said persons so communicating with the said Dr. Jordan as aforesaid, to deliver or send to the address of Dr. Jordan, sums of money for the purpose of procuring from him (as said persons had been led to believe), medicine or treatments skilfully or properly designed or prepared for the cure or alleviation of the diseases with which said persons were afflicted, or had been so induced by said Dr. Gideon M. Freeman, *alias* Paul Allen, to believe themselves to be afflicted, which said sums of money, so sent or delivered to the said Dr. Jordan as aforesaid, he, the said Dr. Gideon M. Freeman, *alias* Paul Allen, should fraudulently convert or appropriate to his own use, and in return therefor, should send or deliver to each of said persons so sending or delivering to him sums of money, certain medicine or treatment not skilfully or properly designed or prepared, and of little or no value, for the cure of the aforesaid persons, Dr. Gideon M. Freeman, *alias* Paul Allen, then and there having no proper or professional knowledge of such persons' conditions, or whether such persons were diseased or not, or whether or not such purported medicine or treat-

ment was capable of benefitting said persons, as he, the said Dr. Gideon M. Freeman, *alias* Paul Allen, then and there well knew. [12]

And he, the said Dr. Gideon M. Freeman, *alias* Paul Allen, on the fifteenth day of July in the year of our Lord one thousand nine hundred and twelve, at the City and County of San Francisco, in the State and Northern District of California, for the purpose of executing said scheme and artifice, or in attempting so to do, unlawfully, feloniously, knowingly and wilfully did place or cause to be placed in the postoffice establishment of the United States at San Francisco, in the State and District aforesaid, or in a station, street box or letter-box thereof, an authorized depository for mail matter, to be sent or delivered by the postoffice establishment of the United States, a certain letter upon which the postage had been fully prepaid, and addressed to Mr. Geo. R. Alberts, Box 1648, Tombstone, Arizona, a copy of said letter being as follows, to wit:

"Office of
Dr. L. J. Jordan,
986 Market St.

Opposite Sixth

Hours: 9 A. M. to 5 P. M.

and 7 to 9 P. M.

Sundays, 10 to 12 A. M.

Private Address:

Paul Allen,
986 Market Street.

Jordan's Museum of
Anatomy.

Established 50 years,
Diseases of Men.

San Francisco, Cal., July 15, 1912.

Mr. Geo. R. Alberts,

Box 1648,

Tombstone, Arizona.

My Dear Sir:—

I had expected to hear from you ere this. I have written several letters, and I think I am entitled to at least the courtesy of a reply—on account of the

interest I have taken in your case. Of course, if you do not wish to treat with me, it is immaterial, but a young man in your condition, and thinking of marrying while you are physically and sexually weak, is exhibiting a very pronounced lack of common sense, and dishonest with himself and those who will be dependent upon him in future years. You may be able to stave off matters for a time but the day will come when you will regret your carelessness. I say this candidly to you. I believe in talking plainly to men. It does no good to conceal from a man the things he should know. You have told me that you considered marriage. Would you attempt such a thing in your present weakened condition, and while you are sustaining a loss that each and every day is leaving you more unfit to attend to your family duties. Can you let this waste go on until your sexual organs have wasted and decreased to such an extent that you are unable to provide your faithful and expectant wife with the happiness she naturally expects and must have to make the [13] home circle happy, contented and peaceful. Can you afford to let your condition become such that it will cause you shame, and your wife disgrace and humiliation. No, deep down in your intuitive understanding you know that you cannot. Then why not remedy these matters, as can be done if you take the proper and immediate steps. I can bring about a restoration providing you come to me now, and follow out my instructions and advice.

It may be possible that my former letters did not reach you. If they did, it seems to me that you

would reply ere this. However, they may have been held up in the postoffice, and providing I don't hear from you in reply to this within a reasonable time, I will write the postmaster to kindly see that you get these letters, and explain to him that this is necessary on account of the condition that you are in, as I want to see you right before you get married. I deem it my duty as a physician to advise you not to neglect your case. I have always taken a strong interest in young men—and want them to be in proper physical and sexual condition before they take such steps as may prove embarrassing later.

I made you a very liberal fee, considering my reputation and ability as a physician in the medical and scientific world, of \$50.00 cash in advance for your case. In order to make it easy for you, as I want to help you in every way possible, I stated that if you could not send the whole amount at once, to send me \$20.00 by return mail and pay me \$10.00 a month thereafter. Isn't this fair. By taking the installment plan of paying, you can readily discontinue treatment after the first month or so providing you were not being benefitted. Of course, I do not wish to cause the impression that yours is an easy case. It will take a few months to put you in such condition as you should be in. Let me hear from you at once so I will know what to do with my records of your case. I must have some data before I can file same, and don't wish to annoy you with unnecessary correspondence. I thank you for your courtesy.

Yours sincerely

Dr. L. J. JORDAN."

AGAINST the peace and dignity of the United States of America, and contrary to the form of the statute of the said United States of America in such case made and provided.

FOURTH COUNT.

And the Grand Jurors aforesaid, on their oaths aforesaid, do further present: THAT Dr. GIDEON M. FREEMAN, *alias* PAUL ALLEN, doing business at No. 986 Market Street, in the City and County of San Francisco, in the State and Northern District of California, under the name of Dr. Jordan, L. J. Jordan Co. and Jordan's Museum of Anatomy, a corporation organized and existing under and by virtue [14] of the laws of the State of California, late of the said State and District, heretofore, to wit, on or about the fifteenth day of May in the year of our Lord, one thousand nine hundred and twelve, in the City and County of San Francisco, State and Northern District of California, within the jurisdiction of this Court, and under the guise and name of the said Jordan's Museum of Anatomy, devised a certain scheme or artifice to defraud, or for obtaining money or property by means of certain false pretenses, representations or promises to be effected by means of the postoffice establishment of the United States, which said scheme or artifice is in substance and effect as follows:

That he, the said Dr. Gideon M. Freeman, *alias* Paul Allen, should place or cause to be placed, advertisements in certain newspapers of general circulation published within the United States, or in let-

ters, booklets or other prints, wherein it should be set forth in substance or effect that the said Dr. Jordan was a physician practicing in the City and County of San Francisco, State of California, and specifically qualified to treat private diseases of men, that is to say, among other diseases, syphilis (blood poison), gonorrhea, and diseases and affections arising therefrom, lost vitality, bladder, kidney, prostatic and urinary diseases and had cured numerous persons afflicted with said diseases, and by means of said advertisements, letters, booklets or other prints, he, the said Dr. Gideon M. Freeman, *alias* Paul Allen, then and there intended to cause or induce John Bammer, J. P. Millspaugh, George R. Alberts, Anson Ashford, and John Caroway, and divers other persons whose names are to the Grand Jurors aforesaid, unknown, and the public generally, to communicate and open correspondence with Dr. Jordan, by means of the postoffice establishment of the United States relative to their real or supposed [15] ailments; that when said persons should communicate with him, the said Dr. Jordan, whom he, the said Dr. Gideon M. Freeman, *alias* Paul Allen, then and there well knew was not a doctor or person existing in life or in fact during all the times set forth in this indictment, by the means aforesaid, that the said Dr. Jordan should write or communicate with said persons by means of letters placed in the said postoffice establishment of the United States, and in substance and effect should state to each of such persons, with intent to defraud each and all of said persons, irrespective of the symptoms there-

tofore communicated as aforesaid to him, and even in cases where the symptoms indicated health rather than disease, and without any proper knowledge of the real condition of said persons, that they, the said persons, were afflicted with diseases which he, the said Dr. Jordan, could cure, and that he would furnish treatments for the cure of such alleged diseases upon the payment to him of certain sums of money; and that by means of said letters so placed as aforesaid, by the said Dr. Gideon M. Freeman, *alias* Paul Allen, he then and there intended to cause or induce all of said persons so communicating with the said Dr. Jordan as aforesaid, to deliver or send to the address of Dr. Jordan, sums of money for the purpose of procuring from him (as said persons had been led to believe), medicine or treatments skilfully or properly designed or prepared for the cure or alleviation of the diseases with which said persons were afflicted, or had been so induced by said Dr. Gideon M. Freeman, *alias* Paul Allen, to believe themselves to be afflicted, which said sums of money, so sent or delivered to the said Dr. Jordan as aforesaid, he, the said Dr. Gideon M. Freeman, *alias* Paul Allen, should fraudulently convert or appropriate to his own use, and in return therefor, should send or deliver to each of said persons so sending or delivering [16] to him sums of money, certain medicine or treatment not skilfully or properly designed or prepared, and of little or no value, for the cure of the aforesaid persons, Dr. Gideon M. Freeman, *alias* Paul Allen, then and there having no

proper or professional knowledge of such persons' condition, or whether such persons were diseased or not, or whether or not such purported medicine or treatment was capable of benefitting said persons, as he, the said Dr. Gideon M. Freeman, *alias* Paul Allen, then and there well knew.

And he, the said Dr. Gideon M. Freeman, *alias* Paul Allen, on the seventh day of November 1912, at the City and County of San Francisco, in the State and Northern District of California, for the purpose of executing said scheme and artifice, or in attempting so to do, unlawfully, feloniously, knowingly and wilfully, did place or cause to be placed in the postoffice establishment of the United States, at San Francisco, in the State and District afore-said, or in a station, street box or letter-box thereof, an authorized depository for mail matter, to be sent or delivered by the postoffice establishment of the United States, a certain letter upon which the postage had been fully prepaid, and addressed to Mr. Anson Ashford, Buckley, Wash., a copy of said letter being as follows, to wit:

"Office of
Dr. L. J. Jordan,
986 Market St.
Opposite Sixth
Hours: 9 A. M. to 5 P. M.
and 7 to 9 P. M.
Sundays, 10 to 12 A. M.

Private Address:
Paul Allen,
986 Market Street.

Jordan's Museum of
Anatomy.
Established 50 years,
Diseases of Men.

San Francisco, Cal., Nov. 7, 1912.

Mr. Anson Ashford,
Buckley, Wash.

Dear Sir and Friend:—

I thank you for your remittance of \$2.50 which I have credited to your account. I also received the

sample of urine, and the question blank, and other data. Same was carefully [17] considered and the urine analyzed, and I find your condition is quite serious. The urine shows large percentages of sugar, showing a serious condition known as Diabetes. Immediate treatment is necessary, and my suggestion would be that you take up treatment at once. This is affecting the kidneys and no doubt causes the pains you mention. Do you ever feel a numb feeling at the ends of your fingers, or toes, ears, nose, etc? Your condition is very weak, as is shown by emissions at night and it is my opinion that your case is quite complicated. The losses at night have a tendency to weaken you, and derange the nervous and sexual systems. It causes loss of appetite, little desire for work; lack of memory; embarrassment; pains in sexual organs; weak eyes, lack of confidence and strength. The cells, muscles and tissues become wasted through an insufficient supply of blood or blood that is very much decreased in nourishing power. Your system needs a strong tonic and restorative, not merely a stimulant. Something that will build new blood, new bone, new muscle and new tissue, and throw off the decayed and waste substances, engorging the parts with a supply of fresh, pure blood, and building the entire system up to normal.

Whether you treat with me or not—I advise you to seek at once the services of a competent and reputable physician; one that you know is above the average. If you do treat with me, I can promise you

results if you give me your co-operation and follow out my instructions and advice. I want no man's case unless he is honest and sincere and wants to be benefited. I am a very busy man and have no time to dissipate with triflers. From the fact that you sent me \$2.50 for a report, I think you are sincere and that you would make a desirable patient. I have spent the greater part of a lifetime treating, studying and curing the diseases of men, and have won a reputation that is second to none by my fair methods to all.

I am willing to take your case on that condition—namely that you will obey my instructions and take my treatment faithfully. I will give you credit for the \$2.50 you paid me, and send you the first month's medicines for \$22.50. Then I will reduce your fee after the first month to \$15.00 a month. I make this offer of monthly payments as it may be more convenient for you to pay in this manner. A few months will put you in good condition, and if you start now, you will notice very good results in a short time—but my dear young man, whatever you do, don't let this condition run along. If you want help, I can give it to you and would like to have your case at once. May I expect you on my list by return mail? You have youth and perhaps a good constitution, and your rapid and complete recovery should be gained without the possibility of failure.

Hoping to have your remittance by return mail, I am,

Yours sincerely,
Dr. L. J. JORDAN."

AGAINST the peace and dignity of the United States of America, and contrary to the form of the statute of the said United States of America in such case made and provided. [18]

FIFTH COUNT.

And the Grand Jurors aforesaid, on their oaths aforesaid, do further present; THAT

DR. GIDEON M. FREEMAN, *alias* PAUL
ALLEN,

doing business at No. 986 Market Street, in the City and County of San Francisco, in the State and Northern District of California, under the name of Dr. Jordan, L. J. Jordan Co. and Jordan's Museum of Anatomy, a corporation organized and existing under and by virtue of the laws of the State of California, late of the said State and District, heretofore, to wit, on or about the fifteenth day of May in the year of our Lord, one thousand nine hundred and twelve, in the City and County of San Francisco, State and Northern District of California, within the jurisdiction of this Court, and under the guise and name of the said Jordan's Museum of Anatomy, devised a certain scheme or artifice to defraud, or for obtaining money or property by means of certain false pretenses, representations or promises to be effected by means of the postoffice establishment of the United States, which said scheme or artifice is in substance and effect as follows:

That he, the said Dr. Gideon M. Freeman, *alias* Paul Allen, should place or cause to be placed, advertisements in certain newspapers of general circu-

lation published within the United States, or in letters, booklets or other prints, wherein it should be set forth in substance or effect that the said Dr. Jordan was a physician practicing in the City and County of San Francisco, State of California, and specifically qualified to treat private diseases of men, that is to say, among other diseases, syphilis (blood poison), gonorrhea, and diseases and affections arising therefrom, lost vitality, bladder, kidney, prostatic and urinary diseases, and had cured numerous persons afflicted with said diseases, [19] and by means of said advertisements, letters, booklets or other prints, he, the said Dr. Gideon M. Freeman, *alias* Paul Allen, then and there intended to cause or induce John Bammer, J. P. Millspaugh, George R. Alberts, Anson Ashford, and John Caroway, and divers other persons whose names are to the Grand Jurors aforesaid, unknown, and the public generally, to communicate and open correspondence with Dr. Jordan, by means of the postoffice establishment of the United States relative to their real or supposed ailments; that when said persons should communicate with him, the said Dr. Jordan, whom he, the said Dr. Gideon M. Freeman, *alias* Paul Allen, then and there well knew was not a doctor or person existing in life or in fact during all the times set forth in this indictment, by the means aforesaid, that the said Dr. Jordan should write or communicate with said persons by means of letters placed in the said postoffice establishment of the United States, and in substance and effect should state to each of such per-

sons, with intent to defraud each and all of said persons, irrespective of the symptoms theretofore communicated as aforesaid to him, and even in cases where the symptoms indicated health rather than disease, and without any proper knowledge of the real condition of said persons, that they, the said persons, were afflicted with diseases which he, the said Dr. Jordan, could cure, and that he would furnish treatments for the cure of such alleged diseases upon the payment to him of certain sums of money; and that by means of said letters so placed as aforesaid, by the said Dr. Gideon M. Freeman, *alias* Paul Allen, he then and there intended to cause or induce all of said persons so communicating with the said Dr. Jordan as aforesaid, to deliver or send to the address of Dr. Jordan, sums of money for the purpose of procuring from him (as said persons had been led to believe), medicine or treatments [20] skilfully or properly designed or prepared for the cure or alleviation of the diseases with which said persons were afflicted, or had been so induced by said Dr. Gideon M. Freeman, *alias* Paul Allen, to believe themselves to be afflicted, which said sums of money, so sent or delivered to the said Dr. Jordan as aforesaid, he, the said Dr. Gideon M. Freeman, *alias* Paul Allen, should fraudulently convert or appropriate to his own use, and in return therefor, should send or deliver to each of said persons so sending or delivering to him sums of money, certain medicine or treatment not skilfully or properly designed or prepared, and of little or no value, for the cure of the aforesaid persons, Dr. Gideon M. Freeman, *alias*

Paul Allen, then and there having no proper or professional knowledge of such persons' condition, or whether such persons were diseased or not, or whether or not such purported medicine or treatment was capable of benefiting said persons, as he, the said Dr. Gideon M. Freeman, *alias* Paul Allen, then and there well knew.

And he, the said Doctor Gideon M. Freeman, *alias* Paul Allen, on the twenty-first day of September, in the year of our Lord, one thousand nine hundred and twelve, at the City and County of San Francisco, in the State and Northern District of California, for the purpose of executing said scheme and artifice, or in attempting so to do, unlawfully, feloniously, knowingly and wilfully, did place or cause to be placed in the postoffice establishment of the United States at San Francisco, in the State and District aforesaid, or in a station, street-box or letter-box thereof, an authorized depository for mail matter, to be sent or delivered by the postoffice establishment of the United States, a certain letter upon which the postage had been fully prepaid, and addressed to Mr. John Caroway, Oroville, Calif., a copy of which said letter [21] being as follows, to wit:

"Office of
Dr. L. J. Jordan,
986 Market St.
Opposite Sixth
Hours: 9 A. M. to 5 P. M.
and 7 to 9 P. M.
Sundays, 10 to 12 A. M.

Private Address:
Paul Allen,
986 Market Street.

Jordan's Museum of
Anatomy.
Established 50 years,
Diseases of Men.

San Francisco, Cal., Sept. 21, 1912.

Mr. John Caroway,
Oroville, Calif.

Dear Sir:

If a man came along and offered you \$2.50, or the

opportunity to make this amount, would you refuse the offer? If you are a young man working for a daily, or weekly, or monthly wage, wouldn't an offer of this kind appeal to you. I have offered you the opportunity several times to do this—to make a clean saving of \$2.50, but you have failed thus far to accept. It would be an investment of \$2.50 towards health insurance, by far the greatest insurance in the world—for good health is the most valuable asset of mankind. Charity begins at home. Be charitable to yourself. One can go on for a time fooling themselves, but you cannot fool nature. Our Creator, through his natural gifts, intended that each and every one of us should be healthy, which means happiness, freedom from worry, content and *dolce far niente*.

It is only through sickness, abuse, excess, or accident that we become weakened; that some of the organs refuse to perform their functions satisfactorily. The organs become weak, and cannot retain the vital fluid that sustains and buoys up the system. Once this loss commences, a warning is given that something is radically wrong. The vital drain saps the virility, energy and physical vigor of the entire body—causing a feeling of ennui, drowsiness, lack of energy, sleepiness, in fact feelings that are indescribable.

Can you not spare 5 minutes of your busy time to write me when you intend taking up treatment? I know you are perhaps very busy—but if you have the time to read my letters, you can at least spare time to answer this one—either one way or the other.

Remember, I don't want your case after your system has become so weakened and broken down that no doctor, or no treatment can restore you. Send me \$12.50, a saving of \$5.00 and I will send you the first month's medicine at once.

Very sincerely,
Dr. L. J. JORDAN."

AGAINST the peace and dignity of the United States of America, and contrary to the form of the statute of the said United States of America in such case made and provided.

JNO. W. PRESTON,
United States Attorney.

Names of witnesses appearing before the Grand Jury.

JAMES O'CONNELL.
HONRERY.

[Endorsed]: A True Bill. Curran Clark, *pro tem*. Foreman Grand Jury. Presented in Open Court and Filed Apr. 20, 1915. W. B. Maling, Clerk. By Lyle S. Morris, Deputy Clerk. [22]

At a stated term of the District Court of the United States of America for the Northern District of California, First Division, held at the courtroom thereof, in the City and County of San Francisco, on Wednesday, the 21st day of April, in the year of our Lord, one thousand nine hundred and fifteen. PRESENT: The Honorable WM. C. VAN FLEET, Judge.

No. 5686.

UNITED STATES OF AMERICA.

vs.

DR. GIDEON M. FREEMAN.

(Arraignment and Plea.)

In this case the defendant was present in court with his attorney, Charles H. Fairall, Esq., and on motion of W. E. Hettman, Esq., Assistant United States Attorney, said defendant was duly arraigned upon the Indictment herein against him, stated his true name to be Gideon M. Freeman, waived reading of Indictment, and then and there plead Not Guilty to the charge contained in said Indictment, which plea the Court ordered, and the same is hereby, entered. Further ordered, on like motion, that this case be, and the same is hereby, continued until April 22d, 1915, to be set for the trial of said defendant. Further ordered that said defendant go at large upon his own recognizance until said April 22d, 1915.

[23]

At a stated term of the District Court of the United States of America, for the Northern District of California, First Division, held at the courtroom thereof, in the City and County of San Francisco, on Thursday, the 22d day of April in the year of our Lord, one thousand, nine hundred and fifteen. PRESENT: The Honorable M. T. DOOLING, Judge.

No. 5686.

UNITED STATES OF AMERICA

vs.

G. M. FREEMAN.

(Order Allowing Filing of Demurrer Nunc Pro Tunc.)

This case came on regularly this day to be set for the trial of defendant herein, who was present in court with his attorney, Charles H. Fairall, Esq., and W. E. Hettman, Esq., appeared on behalf of the United States. Thereupon, on motion of Mr. Fairall and Mr. Hettman consenting thereto, the Court ordered that defendant may demur to the Indictment herein on or before April 26th, 1915, as of April 21st, 1915, the date of the defendant's plea to said Indictment, and that said Demurrer when so presented be filed *nunc pro tunc* as of said April 21st, 1915. Further ordered, on like motion, that defendant go on his own recognizance as to this Indictment upon the Bond heretofore given for his appearance in the case of the United States of America vs. G. M. Freeman et al., No. 5523. Further ordered that the trial of said defendant be and the same is hereby set for April 26th, 1915, at 10 o'clock A. M. [24]

*District Court of the United States, in and for the
Northern District of California.*

UNITED STATES OF AMERICA

Plaintiff,

vs.

GIDEON M. FREEMAN,

Defendant,

(Demurrer to Indictment.)

Comes now the defendant, Gideon M. Freeman, and demurs to the Indictment, and for cause of demurrer alleges:

I.

This case came an regularly this day to be set for That said indictment does not state facts sufficient to constitute an offense against the laws of the United States:

II.

That neither said indictment, nor any count thereof, states facts sufficient to constitute any offense against the United States, or the laws thereof, for the reasons following, to wit:

1. That said indictment does not allege or show the manner or means of obtaining moneys by false or fraudulent pretenses, representations, or promises;

2. That said indictment does not allege that the scheme devised by defendant was to be executed by means of false or fraudulent pretenses, representations, or promises;

3. That said indictment does not allege how said scheme was to be executed;

4. That said indictment does not allege that the per-

sons to be deceived had ever seen said, or any letters, which are alleged to have been deposited in, or sent by, the defendant through the mails of the United States, or that said persons had any knowledge of any such letters, or were in any wise deceived thereby, or that [25] said letters deceived, or were intended to deceive any one;

5. That said indictment does not allege that said scheme set out therein was used or intended to defraud, or was illegal, or was calculated to deceive any person of ordinary comprehension or prudence;

6. That said indictment does not allege that said representations made, as alleged in said indictment, were not true;

7. That said indictment does not directly or positively set out the specific scheme or artifice, which it is alleged defendant devised or entered into;

8. That said indictment does not allege that the persons writing such letters were not suffering from the diseases, or some disease, which defendant was able and intended to treat with skill and success;

9. That said indictment does not allege that defendant knew that the medicines were, or any medicine sent by him as aforesaid to said afflicted persons, was of little or no value, or that he intended to send medicines which he knew were of little or no value;

10. That said indictment does not allege that defendant had no knowledge of such person's condition, or whether such person was diseased, or whether said medicine so sent was capable of benefiting said persons;

11. That said indictment does not allege that said

medicine was incapable of benefiting said persons, or that said persons were not diseased, or that the defendant had no knowledge of their condition, or that defendant knew that said medicine was incapable of benefiting said persons, or knew that said persons were not diseased.

WHEREFORE, defendant prays that said indictment be dismissed.

CHARLES H. FAIRALL,
Attorney for Defendant.

[Endorsed]: Filed in open court April 26, 1915, *nunc pro tunc* as of April 21st, 1915. W. B. Maling, Clerk. By Lyle S. Morris, Deputy Clerk. [26]

At a stated term of the District Court of the United States of America, for the Northern District of California, First Division, held at the courtroom thereof, in the City and County of San Francisco, on Monday, the 26th day of April, in the year of our Lord one thousand nine hundred and fifteen. PRESENT: The Honorable M. T. DOOLING, Judge.

No. 5686.

UNITED STATES OF AMERICA

vs.

G. M. FREEMAN.

Minutes of Trial—April 26, 1915.

This case came on regularly this day for the trial of defendant, G. M. Freeman, who was present in court with his attorney, Charles H. Fairall, Esq., and John W. Preston, Esq., and W. E. Hettman,

Esq., appeared on behalf of the United States. Mr. Fairall presented and filed, *nunc pro tunc* as of April 21st, 1915, a Demurrer to the Indictment herein. Thereupon, the Court ordered that said Demurrer be, and the same is hereby, overruled. Thereupon, both parties answered ready for trial upon said Indictment and the Court ordered that the said trial do now proceed and that the jury-box be filled from the regular Panel of Trial Jurors of this court and accordingly the hereinafter named persons were duly drawn by lot, sworn and examined, to wit: Fred Lovegren, accepted, W. B. Sanborn, peremptorily challenged by defendant and excused, Chas. Keyer peremptorily challenged by United States and excused, H. H. Scott, George Makins, Thomas P. Gilhooly, accepted, E. W. Conolley and Thomas Davis, peremptorily challenged by defendant and excused, A. W. Von Rhein, Warren Spieker, F. L. Wight, accepted, E. L. Oliver and Geo. F. Neal peremptorily challenged by defendant and excused, K. A. [27] Lundstrum, accepted, Thos. W. Collins, peremptorily challenged by United States and excused, S. B. Pauson accepted, Augustus M. Skelly, peremptorily challenged by United States and excused, Henry Wagenheim, excused by consent of both parties, Sol. Zeman-sky, accepted, Chas. W. Weld peremptorily challenged by defendant and excused, A. C. Rulofson and Wm. F. Ohm accepted. Thereupon, twelve persons

having been accepted as Jurors to try the defendant herein, were accordingly sworn, viz.:

Fred Lovegren,	F. L. Wight,
H. H. Scott,	K. A. Lundstrum,
George Makins,	S. B. Pauson,
Thomas P. Gilhooly,	Sol. Zemansky,
A. W. Von Rhein,	A. C. Rulofson,
Warren Spieker,	Wm. F. Ohm.

Mr. Hettman then made statement of case to Court and Jury and called B. D. Beckwith, George E. McMurray, F. D. Crable, F. W. France, W. L. Leonard and G. A. Leonard, each of whom were duly sworn and examined on behalf of the United States and filed for identification certain exhibits which were marked U. S. Exhibits, for Identification, "A," "B," "C," "D," and "E," (packages of letters, etc., and book as part of exhibit "B"), and later introduced in evidence exhibit "A," (for identification), which was marked U. S. Exhibit 1, "B," (for identification), which was marked U. S. Exhibit 2, and "E," (for identification), which was marked U. S. Exhibit 3.

Thereupon, the hour of adjournment having arrived, the Court ordered that the further trial herein be continued until April 27th, 1915. [28]

At a stated term of the District Court of the United States of America, for the Northern District of California, First Division, held at the courtroom thereof, in the City and County of San Francisco, on Tuesday, the 27th day of April, in the year of our Lord, one thousand nine hundred and fifteen. PRESENT: The Honorable M. T. DOOLING, Judge.

No. 5686.

UNITED STATES OF AMERICA

vs.

G. M. FREEMAN.

Minutes of Trial—April 27, 1915.

The trial of the defendant herein was this day resumed, the jury being present and complete. Defendant was present in court with his attorney Charles H. Fairall, Esq., and John W. Preston, Esq., and W. E. Hettman, Esq., appeared on behalf of the United States. Mr. Preston called Edmond Honvery, H. C. Walker, Edward Boerner, A. J. Gock, James T. Burns, Dr. Fletcher McNut and Dr. Dudley Tait, each of whom were duly sworn and examined on behalf of the United States and introduced in evidence certain exhibits which were filed and marked U. S. Exhibits 4 (letters, etc., being U. S. Exhibit "C," for Ident.), 5 (book, being part of U. S. Exhibit "B," for Ident.), 6 (bottle), which was filed as of this date, 7 (letters etc. being U. S. Exhibit "D," for Ident.), and the following exhibits which were filed and marked U. S. Exhibits 8 (letters, etc.),

9 (card), 10 (2 checks), 11, 12, and 13 (books), 14 (affidavit), and 15 (2 affidavits).

Thereupon the hour of adjournment having arrived, the Court ordered that the further trial be and the same is hereby, continued until April 28th, 1915, at 10 o'clock A. M. [29]

At a stated term of the District Court of the United States of America, for the Northern District of California, First Division, held at the courtroom thereof, in the City and County of San Francisco, on Wednesday, the 28th day of April in the year of our Lord, one thousand nine hundred and fifteen: PRESENT: The Honorable M. T. DOOLING, Judge.

No. 5686.

UNITED STATES OF AMERICA

vs.

DR. GIDEON M. FREEMAN, et al.

Minutes of Trial—April 28, 1915.

The trial of the defendant herein was this day resumed, the jury being present and complete. Defendant was present with his attorney Charles H. Fairall, Esq., and John W. Preston, Esq., and W. E. Hettman, Esq., appeared on behalf of the United States. Upon the calling of the case Mr. Preston stated that a subpoena issued to "Dr. Jordan Museum, or Paul Oestings, President, or Gideon M. Freeman, Secretary, 986 Market St., S. F. Calif.," to produce certain books, etc., of the corporation, had not been complied with and requested that the Court

investigate said matter. Whereupon, the Court excused the jury from the courtroom and proceeded accordingly. Mr. Preston then called Paul Oesting, A. M. Robinson, J. T. Burns, E. J. Rice and defendant G. M. Freeman, each of whom were duly sworn and examined as to said matter. Thereupon, after hearing Mr. Fairall, the Court ordered that the parties herein produce all books, letters, etc., now in their possession covered by said subpoena, and accordingly Mr. Fairall presented certain files, letters, etc. Thereupon, the Court ordered that the trial of the defendant do now proceed and that the jury accordingly return into court.

Mr. Preston then called Dr. Henry McGarvey, A. J. McDonald, William C. White and Lyman F. Kebler, who were each duly sworn and [30] examined on behalf of the United States and thereupon rested the case on behalf of the United States. Mr. Fairall then made a motion to strike out all of the evidence introduced herein and after hearing Mr. Fairall, the Court ordered that the said motion be, and the same is hereby, denied. Mr. Fairall also made a motion to instruct the jury to acquit upon the ground of the insufficiency of the evidence herein, which motion the Court likewise denied. Mr. Fairall then called A. M. Robinson and G. M. Freeman (defendant), each of whom were duly sworn and examined on behalf of said defendant.

Thereupon the hour of adjournment having arrived, the Court ordered that the further trial of this case be, and the same is hereby, continued until April 29th, 1915, at 10 o'clock A. M. [31]

At a stated term of the District Court of the United States of America, for the Northern District of California, First Division, held at the courtroom thereof, in the City and County of San Francisco, on Thursday, the 29th day of April, in the year of our Lord, one thousand, nine hundred and fifteen. PRESENT: The Honorable M. T. DOOLING, Judge.

No. 5686.

UNITED STATES OF AMERICA,

vs.

G. M. FREEMAN, et al.

Minutes of Court—April 29, 1915.

The trial of defendant G. M. Freeman was this day resumed, the jury being present and complete. Defendant was present with his attorney Charles H. Fairall, Esq., and John W. Preston, Esq., and W. E. Hettman, Esq., appeared on behalf of the United States. Mr. Fairall recalled the defendant G. M. Freeman for further examination and thereupon submitted the case on behalf of the defendant. The said case was then argued by Mr. Hettman, Mr. Fairall and Mr. Preston and submitted. The Court then proceeded to instruct the jury, who at 2 o'clock and 45 minutes P. M., retired to deliberate upon the verdict and subsequently returned into court at 3 o'clock P. M., and upon being called all twelve jurors answered to their names and were found to be present and in answer to a question of the Court stated that they had agreed upon a verdict and presented

a written verdict, which the Court ordered filed and recorded and which verdict is as follows:

“We, the Jury, find Gideon M. Freeman, the defendant, at the Bar, Guilty as charged in the Indictment.

“A. C. RULOFSON,
Foreman.”

Thereupon, the Court ordered that defendant be and appear for [32] Judgment on May 5th, 1915, at 10 o'clock A. M., and that he go upon the bond heretofore given for his appearance, pending such judgment. Further ordered that the jurors herein be, and they are hereby, excused from further attendance upon the Court until April 30th, 1915, at 10 o'clock A. M. [33]

*In the District Court of the United States, in and for
the Northern District of California, First Division.*

No. 5686,

THE UNITED STATES OF AMERICA

vs.

DR. GIDEON M. FREEMAN.

Verdict.

We, the jury, find Gideon M. Freeman, the defendant at the bar, Guilty as charged in the indictment.

A. C. RULOFSON,
Foreman.

[Endorsed]: Filed April 29th, 1915, at 3 o'clock P. M. W. B. Maling, Clerk. By Lyle S. Morris, Deputy Clerk. [34]

At a stated term of the District Court of the United States of America for the Northern District of California, First Division, held at the courtroom thereof, in the City and County of San Francisco, on Saturday, the 15th day of May, in the year of our Lord, one thousand nine hundred and fifteen. PRESENT: The Honorable M. T. DOOLING, Judge.

No. 5686.

UNITED STATES OF AMERICA

vs.

GIDEON M. FREEMAN.

Minutes of Court—May 15, 1915—Judgment.

This case came on regularly this day for the pronouncing of Judgment upon the defendant herein. John W. Preston, Esq., was present on behalf of the United States. Defendant was present with his attorney Charles H. Fairall, Esq., and thereupon defendant was called for Judgment and duly instructed as to his conviction herein and asked if he had any legal cause to show why Judgment should not be pronounced herein against him. Thereupon Mr. Fairall made a motion to set aside the verdict therein and motion for a new trial, and after hearing Mr. Fairall, the Court ordered that said motions be, and the same are hereby, denied. Mr. Fairall then made

motion in arrest of judgment, which motion the Court likewise denied and to which rulings Mr. Fairall then and there entered an Exception. Thereupon, no sufficient cause being shown or appearing to the Court why such Judgment should not be pronounced, it is ordered that said defendant G. M. Freeman, for the offense of which he stands convicted, pay a fine in the sum of one thousand (\$1,000) dollars and that he be imprisoned for the period of one year in the County Jail of Alameda County, State of California, and in default of the payment of said fine [35] said defendant be further imprisoned until said fine is paid or he be otherwise discharged by due process of law. Further ordered that defendant be committed to the custody of the United States Marshal for this District to execute said Judgment of Imprisonment and that Commitment issue accordingly. Further ordered that the execution of said Judgment be stayed for a period of thirty days from the date hereof. [36]

*In the District Court of the United States, for the
Northern District of California, First Division.*

No. 5686.

THE UNITED STATES OF AMERICA

vs.

GIDEON M. FREEMAN.

Judgment on Verdict of Guilty.

Convicted of Using U. S. Mails for Scheme to Defraud.

John W. Preston, Esq., United States Attorney, and the defendant with his counsel, Charles H. Fairall, Esq., came into court. The defendant was duly informed by the Court of the nature of the Indictment filed on the 20th day of April, A. D., 1915, charging him with the crime of using U. S. mails for scheme to defraud; of his arraignment and plea of Not Guilty; of his trial and the verdict of the jury on the 29th day of April, A. D. 1915, to wit: "We, the jury, find Gideon M. Freeman, the defendant at the bar, Guilty as charged in the Indictment, A. C. Rulofson, Foreman."

The defendant was then asked if he had any legal cause to show why judgment should not be entered herein, and no sufficient cause being shown or appearing to the Court; and the Court having denied a motion to set aside the verdict, motion for new trial, and motion in arrest of judgment, the Court thereupon proceeded to render its Judgment;

THAT WHEREAS, the said Gideon M. Freeman, having been duly convicted in this court of the crime of using U. S. mails for scheme to defraud;

IT IS THEREFORE ORDERED AND ADJUDGED that the said Gideon M. Freeman be imprisoned in the Alameda County Jail, Alameda County, California, for the period of one (1) year, and that he pay a fine in the sum of \$1,000; in default of the payment of [37] said fine the said Gideon M. Freeman, to be further imprisoned until

said fine be paid or until he be otherwise discharged by due course of law.

Judgment entered this 15th day of May, A. D. 1915.

W. B. MALING,

Clerk.

By C. W. Calbreath,

Deputy Clerk. [38]

*In the District Court of the United States, for the
Northern District of California, First Division.*

No. 5686.

UNITED STATES

vs.

GIDEON M. FREEMAN.

**Certificate of Clerk, U. S. District Court to
Judgment-roll.**

I, W. B. Maling, Clerk of the District Court of the United States for the Northern District of California, do hereby certify that the foregoing papers hereto annexed constitute the Judgment-roll in the above-entitled action.

ATTEST my hand and the seal of said District Court, this 15 day of May, 1915.

W. B. MALING,

Clerk.

By C. W. Calbreath,

Deputy Clerk.

[Endorsed]: Filed May 15, 1915. W. B. Maling, Clerk. By C. W. Calbreath, Deputy. [39]

*In the District Court of the United States, for the
Northern District of California, First Division.*

No. 5686.

THE UNITED STATES OF AMERICA,
Plaintiff,
vs.
DR. GIDEON M. FREEMAN,
Defendant.

Defendant's Bill of Exceptions.

BE IT REMEMBERED: That on the 26th day of April, 1915, at a stated term of the District Court of the United States for the Northern District of California, First Division, the above-entitled cause came on regularly for trial before Honorable MAURICE T. DOOLING, United States District Judge, presiding: John W. Preston, Esq., United States Attorney for the Northern District of California, and Walter Hettman, Esq., Assistant United States Attorney for the Northern District of California, appearing for the plaintiff, and Charles H. Fairall, Esq., appearing for the defendant:

THEREUPON a jury was regularly empaneled and sworn according to law, Mr. Hettman made an opening statement for the prosecution, and the evidence hereinafter following was introduced and the following proceedings occurred:

Testimony of B. D. Beckwith, for Plaintiff.

B. D. BECKWITH, called as a witness on behalf of the United States, after being duly sworn, testified as follows: My name is B. D. Beckwith. I am in the abstract business at Colusa. Throughout the years 1912 and 1913, I was postmaster at Colusa. In that capacity, I had correspondence with the Jordan Museum or Dr. L. J. Jordan Company, a corporation, by [40] means of letters sent to me by postal inspectors. I carried on such correspondence under the name of John Bammer. I believe I carried on this correspondence with postoffice inspector, Mr. G. A. Leonard. The memorandum which you show me is an affidavit of mailing that I made for Mr. Leonard. The circumstances under which I made that are: I received this affidavit with a letter to mail, and I mailed the letter and forwarded the certificate. I mailed the letter to Dr. Jordan, 986 Market Street, San Francisco. The date I made this is May 26, 1912. I am not certain that I received a letter May 26, 1912, from Mr. George A. Leonard, postal inspector, which I placed in the mails and sent to the Jordan Museum, but I forwarded the letter on that date. I may have received it a few days prior to that. I received a reply letter under the name of John Bammer to be sent to Mr. Leonard, from the Jordan Museum. This letter, dated May 27, 1912, I believe is the first one that I received. I enclosed that in another envelope and forwarded it to Mr. Leonard. I identify this envelope with the next letter. I received that

(Testimony of B. D. Beckwith.)

in the mail addressed to John Bammer and enclosed it in another envelope and forwarded it to Mr. Leonard. I am able to identify the others in the same way. I sent the letter noted on this memorandum, June 29, 1912; that letter was procured from Mr. Leonard. I also received this letter from the Jordan Museum Company, or Dr. Jordan, Incorporated, and forwarded it to Mr. Leonard. I am able to identify all of these as having passed through my hands.

Cross-examination.

I do not know who wrote these. I have marks on the envelopes to indicate that these are the letters I received. None on the letters. I remember my mark on the letters; I remember I marked the letters. I remember having received these letters, and I also [41] remember my mark on them, on the envelope. I do not identify from the mark on the envelope the contents of the envelope. I do not know anything about whether these letters are the ones that were in the envelopes or not.

Redirect Examination.

When I received the letters from Mr. Leonard to mail under the name of John Bammer, I did not disturb the contents in any way—they were sealed. When I received the letters from Dr. Jordan Company, I did not look at the contents, sent them as they were.

Recross-examination.

The letters came sealed to me, and I do not know where they came from, except from the postmark

(Testimony of B. D. Beckwith.)

on them; they are postmarked at San Francisco, and then they are stamped on the back. I do not know that they came from the Jordan Museum, or Dr. Jordan, as I did not see them mailed. I received them at Colusa. I certainly do not know that they came from this company, nor that he had anything to do with it, nor anything about it.

Testimony of George E. McMurray, for Plaintiff.

GEORGE E. McMURRAY, called as a witness on behalf of the United States, after being duly sworn, testified as follows:

My name is George E. McMurray. I am postmaster at Cherry Creek, Nevada, and have been so employed during the years 1912 and 1913. I had correspondence with Mr. G. A. Leonard, postal inspector, with regard to sending letters to the Dr. Jordan Company. I received letters, and under instructions mailed those letters. The memorandum there represents my affidavit as postmaster, that I mailed a certain letter described in there, a letter dated December 18, 1912. I got that letter under cover from Inspector G. A. Leonard, Washington, D. C. That letter was addressed to Dr. Jordan, 986 Market Street, San Francisco, and I placed it in the mail myself [42] personally. I made that memorandum on that date myself. Letters came to my postoffice addressed to J. P. Millspaugh. I enclosed such letters in an official envelope—first initialed them and then stamped the date on the back and enclosed them in an official envelope addressed to

(Testimony of George E. McMurray.)

Inspector G. A. Leonard, Washington, D. C. These are my initials on the back of the envelope you now show me. The letter I do not know anything about. I mailed that letter to Mr. Leonard in Washington, D. C. These other envelopes you now show me passed through my hands. I received them January 4th, and sent them on January 5th. I also mailed the letter described here on the date January 8, 1913, addressed to Paul Allen, 986 Market Street, San Francisco. I got the letter from Inspector Leonard, Washington, D. C. I received a number of letters addressed to Millspaugh, which I sent on to Leonard after the mailing of that one. I identify the envelope attached here dated, February 8, 1913, and February 13, 1913. After that date, as it is quite a while ago, I do not know that I mailed any more letters to Dr. L. J. Jordan Company. I mailed quite a number of letters that were sent to me by Mr. Leonard. I see here a letter that I mailed, dated February 23d. The contents of that letter were sealed when I received it and when I mailed it. That envelope I received February 27th and mailed to Washington February 28th, initialed and dated. Another envelope I received March 9th and mailed to Washington March 10, 1913. Another envelope I received March 20th and sent to Washington March 21, 1913. Another envelope I received March 30, initialed and sent to Washington March 31, 1913. All these letters that I received addressed to Millspaugh, I forwarded on to Mr. Leonard at Washington, D. C.,

(Testimony of George E. McMurray.)

without opening them; and the letters I received from Inspector Leonard, I forwarded to their various addresses without opening.

(Documents marked exhibit "A" and exhibit "B" for Identification.) [43]

Testimony of F. D. Crable, for Plaintiff.

F. D. CRABLE, called as a witness on behalf of the United States, after being duly sworn, testified as follows:

My name is F. D. Crable. I reside at Flagstaff, Arizona, which is in the southeastern part of the State. I was postmaster at Tombstone from 1907 until the latter part of 1912. As such postmaster I received from the postoffice department envelopes that were addressed to a man named Dr. L. J. Jordan. I do not recall the name of the man from whom I received those envelopes, but they were from the postoffice inspector. They came from the postoffice inspector. I do not remember whether Washington or San Francisco. The envelopes I received I mailed at the office. I was postmaster at the time. They had stamps on them and I cancelled the stamps in the regular course of business. The envelopes were addressed to some institution in San Francisco. I could identify the envelopes if I were to see them. At the time I received these envelopes for mailing, they appeared to have something inside of them. They were sealed. I had instructions from the department about the name of the party that was supposed to be the signer of the letters contained in the envelopes. I do not recall having re-

(Testimony of F. D. Crable.)

ceived any letters addressed to a man named George R. Albert. In the package of correspondence you show me, purporting to be letters sent and received through my office, I recognize some of the envelopes that came in due course of mail to my postoffice at Tombstone. The envelope purporting to have a stamp dated on it June 7, 1912, with the stamp cancelled, the address being Mr. George R. Albert, Box 1648, Tombstone, Arizona, came in due course of mail to my postoffice. It appeared to contain sealed information. I think my clerk made a notation on the back and enclosed it in a sealed envelope to the inspector from whom we received our instructions. The handwriting on the back part of that envelope is that of the clerk I had at the time. The envelope [44] upon which appears the stamp June 12, 1912, addressed to the same party, has a notation on it by the same clerk, W. A. Harwood, Jr. The envelope marked June 24, 1912, came to my postoffice in the ordinary course of mail. The envelope itself with the contents was mailed to the inspector in the regular course. The notation on the back of this envelope is in my own handwriting. The envelope bearing the stamp July 4, 1912, to the same person, passed through my office, and that is my own handwriting. That appeared to contain sealed matter. I can say the same with reference to the one dated July 15, 1912. The handwriting on the back of that is my clerk's. Owing to my official position, I know it passed through there. The one dated July 24, 1915, regularly passed through the office; also the

(Testimony of F. D. Crable.)

one bearing date August 20, 1912. That is my own handwriting. The one bearing date August 30, 1912, the same is true of that, and that is my handwriting. One dated June 13, 1913, that in due course of mail passed through my postoffice, and was forwarded by me with its contents, if it had any, to the postal inspector George A. Leonard. From the memoranda here, I can state that I mailed in due course letters to Dr. Jordan, 986 Market Street, San Francisco, California. Those I received from the postal inspector and forwarded in due course of mail. The stamps were cancelled on them the same as any other letter. There were several such letters. I did not keep track of how many. I can say there were more than two letters received. Whatever letters were received by me in due course of mail were forwarded as I have stated.

(Letter marked for identification Exhibit "C.")

Cross-examination.

I was probably in the office when the clerks who were working for me sent the mail. Some of the letters I sent and my clerks also sent some. I have no personal knowledge as to those the clerks [45] sent. Those that have my initials on I put on the back.

Testimony of F. W. France, for Plaintiff.

F. W. FRANCE, called as a witness on behalf of the United States, after being duly sworn, testified as follows:

My name is F. W. France. In 1912 and 1913 I was postmaster at Buckley, Washington, and as such

(Testimony of F. W. France.)

postmaster received certain envelopes purporting to contain sealed matter for the purpose of mailing. I received a number of letters from Inspector Honvery, and I do not know as I could tell the names and addresses, by which I can refresh my memory as to the forwarding of such letters. I could not say when a letter was received, but this one was forwarded October 12th, 1912, to Dr. Jordan, 986 Market Street, San Francisco, California. There is a registered letter addressed to Paul Allen at San Francisco. No address given, sent November 4, 1912. Mail came to my postoffice purporting to be mail from San Francisco addressed to a man named Anson Ashford. I forwarded such mail under cover to Postal Inspector Honvery at Washington, D. C. It appeared to have come through the mail in regular course and had a cancelled stamp on it, and was postmarked.

Q. I show you here a package of envelopes, one dated October 15, 1912, and one dated October 25, 1912, and a return card for registered letter under date of November 17, 1912, also an envelope dated November 18, 1912, also an envelope dated November 18, 1912, December 13, 1912, December 14, 1912, one January 6, 1913, one of June 13, 1913, and ask you whether or not those envelopes came in due course of mail to your postoffice and were by you forwarded to the postal inspector in charge?

A. They did and were.

(Document offered marked Exhibit "D" for Identification.) [46]

**Testimony of George E. McMurray, for Plaintiff,
(Recalled).**

GEORGE E. McMURRAY, recalled on behalf of the United States, testified as follows:

This package you now show me came in due course of mail to my postoffice and was forwarded by me to the Post Office Department, just as it is now. It was not opened. I had no anxiety to open and read it. I am sure I did not do it.

Testimony of W. L. Leonard, for Plaintiff.

W. L. LEONARD, called as a witness on behalf of the United States, after being duly sworn, testified as follows:

My name is W. L. Leonard. I was postmaster at Oroville, Butte County, California, in 1912 and 1913. As such postmaster, I received instructions about mailing certain envelopes to one Dr. Jordan at San Francisco, and received envelopes for the purpose of mailing. I did mail them. I received instructions in regard to forwarding the mail of John Caroway that came there. I forwarded such mail to the Inspector at Washington. I did not know what that gentleman was suffering from.

Q. Look through this folder of correspondence and tell us how many letters you mailed to Dr. Jordan?

A. Here is one—there was one received from the postal inspector in charge of my office on June 29, 1912, addressed to Dr. Jordan, 986 Market Street, San Francisco. I postmarked the letter on that

(Testimony of W. L. Leonard.)

date and placed it in the mail at that particular time—cancelled the stamp on it and postmarked it. I put it in the mail complete, just as it was sent. There was a letter received back, postmarked San Francisco, in the regular course of mail, received at my office, addressed to John Caroway. I took that letter and marked it so that I could identify it again at any time, and forwarded it under cover to the postoffice Inspector at Washington. I received the first letter of that kind in my office July 2d, and forwarded it to Washington on the same day. That is the envelope. What it had in it I do not [47] know. It was sealed up. I received another one July 15th. This was a registered letter and was addressed to Mr. Paul Allen, care of Dr. Jordan, 986 Market Street, San Francisco, California; it was received at my office on July 15th, and mailed by me personally by registered mail on that date, and placed in the mail that same day. There is another one to Allen, care of Dr. Jordan, 986 Market Street, San Francisco, California, marked July 14, 1912, and that was also postmarked by me and placed in the mail in person. This little slip is a registry slip for this other letter that was registered by me and personally placed by me in the mail on July 15, 1912. This is a letter that I received in reference to this letter, which I registered here; the notations were made by me at that time on that.

This letter was received at my office addressed to John Caroway, mailed at San Francisco, July 26, 1912, received at my office July 27th, and personally

(Testimony of W. L. Leonard.)

handled by me, enclosed in a sealed envelope and sent to the postal inspector in Washington.

On August 7th, there was a letter addressed to Mr. Paul Allen, 986 Market Street, San Francisco, Cal., received in my office August 9th, and mailed on that same date to the place indicated on this sheet, addressed to Paul Allen, 986 Market Street, San Francisco, Cal. Subsequently a letter was received at my office on July 12th, personally handled by me, addressed to John Caroway, Box 451, Oroville, Cal., and that letter, when received by me, was by me in turn placed under cover and sent to the postoffice inspector at Washington. The same thing is true of a letter dated July 16th, received July 17th, at my office; also this return registry receipt, which was received back from the registered letter which was sent out signed by Paul Allen, and that in turn was sent to the postoffice inspector at Washington by me. [48]

Here is another letter to the same party and handled in the same manner. This letter was dated August 8th, and received August 9th, and forwarded to Washington on the same date under cover. This letter dated August 5th, out of San Francisco, came to my office on the 6th and was treated in the same manner, sent under cover to the postoffice inspector at Washington. The same way with a letter addressed San Francisco, dated August 10, 1912, and received at my office on the 12th. When I say dated I mean postmarked on the outside of the envelope. John Caroway, Box 451, dated San Francisco,

(Testimony of W. L. Leonard.)

August 21st, received at my office August 22d, and sealed and mailed to the postoffice inspector in Washington. Another letter addressed John Caroway, Box 451, Oroville, Cal., postmarked September 3d, received in my office September 4th, and by me personally sent to the postal inspector at Washington.

Another to John Caroway, Box 451, from San Francisco, September 12th, marked by me personally the following day, and sent by me to the postal inspector in Washington. Also this one dated September 21st, 1912—each one of these is marked personally by me and I sent them under cover—another to John Caroway, Box 451, Oroville, Cal., dated October 12, 1912, dated at my office on the 13th; and sent under cover to the postal inspector at Washington.

Another to John Caroway, dated October 4th, and received at my office the following day, and sent by me under cover to the postal inspector at Washington. Another to John Caroway, dated June 12, 1913. I received something at one time that I believed to be a little paper book. Possibly it might have been medicine, I would not say, I do not think that I forgot to mail that.

Testimony of G. A. Leonard, for Plaintiff.

G. A. LEONARD, called as a witness on behalf of the United States, after being duly sworn, testified as follows:

My name is [49] G. A. Leonard. I am postal inspector in charge of San Francisco and have been

(Testimony of G. A. Leonard.)

since August, 1913. Just prior to that I was in Washington, D. C., as an inspector. I am the G. A. Leonard referred to as having conducted certain correspondence with the postmasters whom you have seen on the stand here.

The first letter in the trial of papers known as Government's Exhibit "A" is a carbon copy of a letter which I wrote on May 27th, 1912. I placed this in an envelope addressed to Dr. Jordan, 986 Market Street, San Francisco, and forwarded it to the postmaster at Colusa, California, for mailing. The substance of the letter is as follows:

Government's Exhibit "A"—Letter Dated May 27, 1912, from John Bammer to Dr. Jordan.

"Dear Doctor:—I have seen your advertisement, and am writing to you to know if you have any medicine that will restore my lost power now that I am eighty years old. *Yours* truly, John Bammer, Box 800."

I have seen some of Dr. Jordan's advertisements of that kind. I do not know anything personally about the notations on these advertisements. I sent that letter to that postmaster with instructions to mail it to the address there given. It was placed in an envelope, sealed, and stamped, and the envelope was addressed to Dr. Jordan, 986 Market Street, San Francisco. This envelope was placed inside of another envelope and sent to the postmaster at Colusa, California, accompanied with certain instructions concerning the mailing. I got replies to that letter. I received them through the mail from

(Testimony of G. A. Leonard.)

the postmaster at Colusa, California, in an official envelope. It covered a letter mailed at San Francisco, California, May 27, 1912, at 6 P. M., addressed "Mr. John Bammer, Box 800, Colusa, Cal." I received that letter at Washington, D. C., on the 8th of June, 1912. It was a sealed letter, and that is the envelope in which I received it.

Q. Read it.

Mr. FAIRALL.—We object to the reading of the contents of that [50] letter, until it has been shown that the defendant was in some way connected with the writing of it.

The COURT.—The objection will be overruled.

Mr. FAIRALL.—Exception.

A. It is on the letter-head, "Office of Dr. L. J. Jordan, 986 Market Street, opposite Sixth; hours 9 A. M. to 5 P. M. and 7 to 9 P. M.; Sundays 10 to 12 A. M. Private address: Paul Allen, 986 Market Street, Jordan's Museum of Anatomy. Established Fifty Years. Diseases of Men.

San Francisco, Cal., May 27, 1912.

Mr. John Bammer,

Box 800, Colusa, California.

Dear Sir and Friend:

I have your letter and note what you say. However, it would be impossible for me to give you any definite information without further information regarding your condition, and enclose herewith a question blank for you to fill out and return; also treat and return the litmus papers as per the directions on the small envelope that contain them. Then

(Testimony of G. A. Leonard.)

write in your letter a full history of your case, since the beginning. Give me all the information you can.

Awaiting your early reply, I remain,

Yours very sincerely,

L. J. JORDAN.

Dict. X."

Mr. FAIRALL.—We move to strike out the letter on the ground that it is immaterial, irrelevant and incompetent; on the further ground that it is hearsay and has in no way been connected with the defendant in this case or with the Jordan Museum, or with Dr. Jordan or any party connected with the case.

The COURT.—The motion is denied.

Mr. FAIRALL.—Exception.

A. A letter dated San Francisco, Cal., June 7, 1912, 7:30 P. M. Addressed "Mr. John Bammer, Box 800, Colusa, Cal.," which was [51] received by me at Washington, D. C., June 18, 1912.

Mr. FAIRALL.—Same objection.

The COURT.—Same ruling.

Mr. FAIRALL.—Exception.

A. It is headed the same way as the other:

"San Francisco, Cal., June 7, 1912.

"Mr. John Bammer,

Box 800, Colusa, Calif.

Dear Sir:—

Sometime since on your request I mailed you a copy of my book 'The Philosophy of Marriage,' which I trust you have received and read with care.

"I presume you are suffering from some ailment

you do not understand and from which you desire relief. A knowledge of sexual hygiene, self and sex and their relation to life and health, diseases of life-giving organs, vicious practices and their results and sequelae do not come intelligently of themselves, nor correctly from ordinary every-day sources, nor by the advice of ignorant friends.

“False modesty no doubt prevents you consulting one who has given his entire professional life in guiding thousands along the road to health, happiness and success. I want your confidence, as others have given it during all of my professional career. .

“I am sure you wish to make a name for yourself; you do not want to be a failure before your time. You wish vigor and stamina in order to overcome the difficulties you meet in the battle for existence. To do this you must not be handicapped by weak organs. You must be strong in the loins and gird them up, as directed in the Good Book. No chain is stronger than its weakest link. Ships in storms are at the mercy of the weakest bolt.

“Self-pity and the demon of discontent, the weight that holds thousands back, is caused by ill health of one or more of the vital functions. [52]

“No matter who you are, no matter how much money you have, no matter if you are able to pay cash, no matter if you must have terms, no matter what the conditions, you cannot afford to neglect yourself. Self preservation is the first law of nature. This relates to your health, as well as fighting

(Testimony of G. A. Leonard.)

to defend your life, or the life and health of your offspring.

“Therefore return my blank with the questions all answered. Do not allow a secretive nature, engendered by this condition and a symptom of it, to delay and prevent you obtaining a complete cure.

“Do not allow money matters to interfere. I assure you that all charges will be reasonable and within your means. We have never worked a hardship on anyone. Answer immediately.

Very truly yours,

Dr. T. J. JORDAN.

Dict. by T. B.”

Mr. FAIRALL.—The same motion.

The COURT.—The same ruling.

Mr. FAIRALL.—Exception.

A. Another letter mailed at San Francisco, Cal., June 18, 1912, at 6 P. M., addressed “Mr. John Bammer, Box 800, Colusa, Cal.,” as follows:

“Mr. John Bammer,
Colusa, Calif.

Dear Sir:

Having received no reply to my letters in answer to your communication some time ago, and thinking it possible that they may have gone astray, or may have been incorrectly addressed to you, I write to ask, if you receive this letter, that you will pardon the apparent delay, and will at once give the matter of your treatment proper and prompt attention so that further complications may not have an opportunity to arise and cause you more trouble.

"I cannot understand how it is that you are content to let your case run on as it has and sacrifice your health for life, when, if you will only stop and consider for a few minutes that at this [53] particular time, a restoration to perfect health and sexual strength can be affected within a short time; and I assure you that, if you will give yourself the proper attention, you will never regret doing so; but, if you do not take my advice, you will come to grief later on, believe me.

"My treatment is perfectly harmless, rest assured, and the long term of years over which my practice has extended, with the careful study of hundreds of cases that I have cured, has gained for me a reputation as a skillful and successful specialist.

"Trusting that I will hear from you on receipt of this letter and that you will get started after your case in earnest, I am,

Yours friend,

Dr. L. J. JORDAN.

Dict. by S. N."

On June 25, 1912, I mailed the symptoms blank referred to in the letters I have read, as follows:

"Questions to be Answered in Cases of Spermatorrhea, Impotency and Sexual Debility.

Name, John Bammer; Postoffice, Colusa, Cal. Express office? Colusa, Cal.

How long have you lived in your present location?

A. 10 yr.

Does the climate agree with you? Yes.

Age? 80. Weight? 170. Height? 5-10.

Color of Hair? White. Color of eyes? Blue.

Are you married? Yes.

If so, for how long? A. 50 years.

Your nationality? American.

Your occupation? Retired.

How long have you been so employed? 10 yrs.

Does your work fatigue you? Don't work much.

Are you confined indoors? No.

Do you dissipate in any way? No.

What has been the cause of your complaint? Old age. [54]

How often do you have sexual intercourse? None.

Is sexual intercourse satisfactory in every way?

Can't do it.

Are the seminal discharged (during sexual intercourse) too quick or too slow? Can't do it.

Do you lose semen in your urine? No.

Do you lose semen during movement of bowels? No.

Do you have emissions of semen at night with or without dreams? No.

Does the semen ever pass from you during the day when you have amorous thoughts or when in company of women? No.

Are you attended by erections?

Are the erections weak? No erections.

Is there any loss of sexual desire or power? Yes.

Have your privates wasted or become small? Yes.

Is the prepuce (foreskin) long? Yes.

Have you any Varicocele (a knotted condition of the

(Testimony of G. A. Leonard.)

veins in the scrotum or bag)? No.

Are the erections strong? No erections.

Does the scrotum hang low? No.

Is there stricture (obstruction) in the water passage? No.

How often do you urinate? 5 or 6 times a day.

What is the appearance of the urine? Light yellow.

Is its passage painful? No.

What is the condition of your stomach? Good.

What is the condition of your bowels? All right.

Are you troubled with piles or pinworms? No.

Is there any inflammation or soreness of the rectum?
No.

Are you ruptured,—if so, describe same, and do you wear a truss? No.

Are you restless and wakeful at night? No.

Have you ever had gonorrhea (clap)? No.

Have you ever had gleet (gonorrhea over three months)? No. [55]

Have you ever been under treatment? No.

If so, by whom and how long?

Could you call, if necessary? No.”

I have not the original symptom blank. I read a copy. The original was sent. I have a carbon copy of the original by numbers, and also an exact copy of the blank which was sent. It came as a printed blank in general form. It was not made out specially for my case. With that symptom blank, I sent two little strips of litmus paper which had been furnished by the L. J. Jordan Company, and the directions were to dip the litmus paper in the urine;

(Testimony of G. A. Leonard.)

the litmus paper I sent was dipped in water taken from a bottle we had in the room; it was a bottle of drinking water. In that water we placed ten drops of lemon juice, in a part of a glass of water, and dipped the litmus paper in that. I was not trying to produce an acid condition there. I dipped the litmus paper in the water to which had been added some lemon juice. Nobody told me to put in lemon juice. I did not know that would make an acid condition. I presume I knew that lemon juice is acid.

I next received a letter mailed in San Francisco, California, July 2, 1912, 7:30 P. M., addressed to Mr. John Bammer, Box 800, Colusa, Cal.

Mr. FAIRALL.—Under the same objection?

The COURT.—Yes.

A. “Mr. John Bammer, Box 800, Colusa, Cal.

Dear Sir and Friend”:

(This is on the same letter-head.)

“I have your return of the question blank and test papers. You should have written me by letter also—giving me any further information you deem necessary that I should know. From the data you sent me it is my judgment that you have an excess of amorphous-urates and phosphates, indicating wasted energy, and anemia neurasthenia, at the expense of some of the functions of the body. [56] You require and demand treatment to place you on a par with your fellow-men. You will find the testicles are weak and flabby and not manufacturing healthy spermatozoa. There is no evidence of Bright’s Disease, or proof of Diabetes, altho an

overworked kidney may lead to both. You will find mucous strings flocculi or sediment in the urine indicating prostatic inflammation at the neck of the bladder, with the consequent loss of vitality and absence of complete sexual satisfaction required by all male animals of health.

“Your case is a complicated one requiring careful and scientific treatment on the part of any physician who treats you. If you give your case into my hands I must have honest co-operation on your part, following to the letter my instructions, which are perfectly simple.

“I don’t profess to say that your case is an easy one to handle. But you can secure very material assistance. My treatment will create new blood, new muscle and new secretions, promote circulation, build up and maintain new nerve cells and fibres. The weakened and rundown system will be built up and invigorated, and injected with spirit and life—such as should be found in every man who cares to give the proper attention to his health and the maintenance of his vigor and manhood power. I will take your case and furnish the medicines required for \$10.00 a month. This is fair method of payment to you, although I do not know your financial circumstances. You need not hesitate to write me fully, as everything is kept confidential. All medicines are sent out in plain packages, and no one knows from whom they come.

“I would like your reply by return mail whether you wish to take up the treatment or not. By writ-

(Testimony of G. A. Leonard.)

ing me your intentions, I will know what to do about further correspondence. I do not like to write unnecessary letters to anyone, as they might go astray, [57] or fall into someone else's hands and cause you embarrassment; therefore, reply at once.

"If you could come down and see me—I would be glad to have you do so. Please let me know if you can come, and at what time. I would like to talk with you, as things can be explained better by a personal interview than in a letter.

"With kind regards, and best wishes, and awaiting your early reply, I remain,

"Very sincerely yours,

"Dr. J. L. JORDAN.

Dict. X."

That is all that was done in connection with that case. I sent the litmus paper dipped in water, to which lemon juice had been added. This book here, a part of exhibit "A," was received by me in connection with another case, not this one.

This Government Exhibit "B" is a file of correspondence, containing carbon copies of letters which were sent to the Dr. Jordan Company, and letters which I received from the company. It is the same general character of correspondence that I have just read. The first is a carbon copy of a letter which I wrote on December 13, 1912, as follows:

Government's Exhibit "B"—Letter Dated Cherry Creek, Nev., from J. P. Millspaugh to Dr. Jordàn.

"Cherry Creek, Nev.

Dr. Jordan:

Dear Doctor:

Please send me your book about 'Philosophy of marriage' and information about your cures of men.

Yours truly,

J. P. MILLSPAUGH,

General Delivery."

Next is a letter postmarked "San Francisco, Cal., Dec. 20, 1912, 7 P. M.," addressed to "Mr. J. P. Millspaugh, General Del., Cherry Creek, Nev.," and reads as follows: The same letter heading as in the case I just read.

"San Francisco, Cal., Dec. 20, 1912.

"Mr. J. P. Millspaugh, Gen. Del.,

Cherry Creek, Nev. [58]

Dear Sir:—

This is to acknowledge the receipt of your favor of recent date. I am mailing to you by this mail my book 'The Philosophy of Marriage,' under separate cover. Should it not arrive promptly, please notify me.

"This book will give to you valuable information on Sexual Hygiene, and the care of the functions that go to make the boy and man a success in his work, and above and beyond all, live a happy married life.

"All dominant magnetic men are sexually strong.

They are attractive and commanding to both sexes.

“My space here and in the book forbids a discussion of special or particular cases. I will be pleased to discuss your case, or give you any further information you may desire, in plain language, so that you will have a clear understanding. The same to any friends of yours you know to be making mistakes, if he will write me.

“I have touched on the practice known as Onanism (Self-abuse) because of its very great importance to men in all walks of life. It is a great factor in the success and happiness of man’s business and matrimonial career. It is a brain and nerve leak readily curable. If not cured and every trace of the injury done removed, no matter how late in life, disaster and failure are sure.

“Tell me your story in confidence. I will advise you true.

“The secret of success is nervous energy. The hustling spirit of enterprise is only an expression of that energy. Nothing is impossible to the man who has the strength to try for it. No man has the strength who allows vitality to constantly leak or waste away. The one is courageous and brave; the other is a coward.

“I call your attention to another important factor: the effect and cure of Gonorrhoea, Syphilis and other venereal diseases, both [59] remote and recent. Sometimes the entire life is changed by bad advice and by ignorant treatment by persons pretending to know, leaving results removable only by

(Testimony of G. A. Leonard.)

the expert specialist. All diseases of this nature are curable. Their effects on the stomach, kidneys, liver and nervous system are removable.

“Answer all the questions on the enclosed blank, then mail to me with the return of the two slips, after following directions printed on the envelope.

“Trusting to hear from you at an early date,

“Very truly yours,

“Dr. J. L. JORDAN.

“P. S.—Inclosed chemical test papers take the place of the bottle of urine called for in question blank.

Dic. by O. A.”

Another letter postmarked San Francisco, January 2, 1913, at 7 P. M., addressed to Mr. J. P. Millspaugh, General Delivery, Cherry Creek, Nevada, as follows:

“San Francisco, Cal., Dec. 30, 1912.

Mr. J. P. Millspaugh,

Cherry Creek, Nev.

Dear Sir:—

Sometime since on your request I mailed you a copy of my book ‘The Philosophy of Marriage,’ which I trust you have received and read with care.

“I presume you are suffering from some ailment you do not understand and from which you desire relief. A knowledge of sexual hygiene self and sex and their relation to life and health, diseases of life-giving organs, vicious practices and their results and sequelae do not come intelligently of themselves, nor

correctly from ordinary every-day sources, nor by the advice of ignorant friends.

False modesty no doubt prevents you consulting one who has given his entire professional life in guiding thousands along [60] the road to health, happiness and success. I want your confidence, as others have given it during all of my professional career.

“I am sure you wish to make a name for yourself; you do not want to be a failure before your time. You wish vigor and stamina for existence. To do this you must not be handicapped by weak organs. You must be strong in the loins and gird them up, as directed in the Good Book. No chain is stronger than its weakest link. Ships in storms are at the mercy of the weakest bolt.

“Self pity and the demon of discontent, the weight that holds thousands back, is caused by ill health of one or more of the vital functions.

“No matter who you are, no matter how much money you have, no matter *is* you are able to pay cash, no matter if you must have terms, no matter what the conditions, you cannot afford to neglect yourself. Self preservation is the first law of nature. This relates to your health, as well as fighting to defend *you* life, or the life and health of your offspring.

“Therefore return my blank with the questions all answered. Do not allow a secretive nature, engendered by this condition and a symptom of it, to delay and prevent you obtaining a complete cure.

(Testimony of G. A. Leonard.)

"Do not allow money matters to interfere. I assure you that all charges will be reasonable and within your means. We have never worked a hardship on anyone. Answer immediately.

"Very truly yours,

"Dr. L. J. JORDAN.

"Dict. by T. B."

Under date of January 3d, 1913, I filled out a symptom blank and I have here a carbon copy of it. The heading is:

"Be sure and put your name on your *same* of Urine. Express or Postage must be Prepaid on same."

DR. JORDAN,
SPECIAL QUESTION BLANK AND DIAG-
NOSIS SHEET. [61]

"I wish to impress upon you the importance of answering in detail the following questions, regardless of your opinion as to whether or not they are of importance, because information which may seem irrelevant and unnecessary to you may be of great weight in enabling me to make a thorough diagnosis in your case, and consequently enable me to render you satisfactory service.

"And to further assist me in making a correct diagnosis, in your particular condition, it is absolutely necessary to make a careful and microscopical analysis of your urine.

"Therefore, kindly send me a small bottle of your urine (well packed) either by mail or express, pre-paid. As this urinary analysis necessitates some

(Testimony of G. A. Leonard.)

expense and labor I make the nominal charge of \$2.50 to cover same, and would ask you to kindly remit this amount with the urine.

“When sending sample of urine be sure and have your name or some mark of identification on the package, so I may know who sent it. I received a great many samples of urine daily, and I must know from whom they come, otherwise they are given no attention.

“Dr. Jordan has the most complete set of instruments and the most powerful microscope, with which to conduct these investigations, that there is on the Pacific Coast.

“I must know and you must know, just what these conditions are. Why? I must know to determine the course of treatment. You, to settle the question every intelligent patient always asks himself every time he urinates, “Does my seed pass in my urine?” Now, this is the best and proper way to proceed to ascertain a cure for your troublesome disease. Don’t delay and say, ‘I will wait until some other time.’ Delays are always dangerous. Proceed at once to relieve yourself of one of the greatest *cures* of mankind.

“Therefore answer each and every one of the following questions conscientiously, to the best of your knowledge.” [62]

This symptom blank, which was contained in the first letter, accompanied the letter of December 20th. My first letter was simply a request for a book on marriage. He enclosed his symptom blank. The

last paragraph of his letter is as follows:

“Answer all the questions on the enclosed blank and mail to me with the return of the two slips, after following directions printed on the envelope.

“A. Questions to be answered in cases of Spermatorrhoea, Impotency and Sexual Debility.

1. Name? J. P. Millspaugh.
2. Postoffice? Cherry Creek, Nev.
3. Express office?
4. How long have you lived in your present location? 5 years.
5. Does the climate agree with you? Yes.
6. Age? 54. Weight? 181. Height? 5 ft. 11.
7. Color of Hair? Gray. Color of Eyes? Blue.
8. Are you married? Yes.
9. If so, for how long? 30 years.
10. Your nationality? American.
11. Your occupations? Carpenter.
12. How long have you been so employed? All my life.
13. Does your work fatigue you? No.
14. Are you confined indoors? No.
15. Do you dissipate in any way? No.
16. What has been the cause of your complaint?
I don't know.
17. How often do you have sexual intercourse?
About 1 a month.
18. Is sexual intercourse satisfactory in every way? Yes, when I have it.
19. Are the seminal discharges (during sexual intercourse) too quick or too slow? No. [63]

20. Do you lose semen in your urine? I don't know.
21. Do you lose semen during movement of bowels? I don't think so.
22. Do you have emissions of semen at night with or without dreams? No.
23. Does the semen ever pass from you during the day when you have amorous thought or when in company of women? No.
24. Are you attended by erections?
25. Are the erections weak?
26. Is there any loss of sexual desire or power? Yes.
27. Have your privates wasted or become small? No.
28. Is the prepuce (foreskin) long? No.
29. Have you any Varicocele (a knotted condition of the veins in the scrotum or bag? No.
- 29½. Are erections strong? Yes.
30. Is there any stricture (obstruction) in the water passage? No.
31. How often do you urinate? About 4 times a day.
32. What is the appearance of the urine? Light red.
33. Is its passage painful? No.
34. What is the condition of your stomach? All right.
35. What is the condition of your bowels? Good.
36. Are you troubled with piles or pinworms? No.

(Testimony of G. A. Leonard.)

37. Is there any inflammation or soreness of the rectum? No.
38. Are you ruptured, if so, describe same, and do you wear a truss? No.
40. Are you restless and wakeful at night? No.
41. Have you ever had gonorrhoea (clap)? No.
42. Have you ever had gleet (gonorrhoea over three months)? No.
43. Have you ever been under treatment? No.
44. If so, by whom and how long? No.
45. Could you call, if necessary? No."

On the reverse side of the sheet are questions which were not [64] answered, but on this side I made the following written notation:

"Dear Doctor: I am afraid that I may be losing semen in my urine because I don't have so much desire for intercourse as I used to have. Now I am sending you papers and I hope you can tell me about it."

The litmus papers which were returned with the symptom blank were soaked in a solution of tea to which had been added a little salt, a little library paste and a few drops of ammonia. It changed the color of the pink paper slightly. Here are some papers that were dipped in the same solution, the same kind of papers that were dipped in the same solution; this is an envelope which was forwarded to me with the symptom blank, and the same kind of an envelope with the same kind of papers were returned to the doctor with the blank. On the outside of the blank is 'Inclosed you will find chemical test

(Testimony of G. A. Leonard.)

papers. Directions: Dip these strips into the urine passed in the morning. Then dry them and return them to me in this envelope, together with all questions answered on the Question Blank."

A letter at San Francisco, January 10, 1913 at 6 P. M., addressed to J. P. Millspaugh, Cherry Creek, Nevada, as follows:

"Mr. J. P. Millspaugh,
Cherry Creek, Nevada.

Dear Sir:—

I have your symptom blank and the urine test slips. I note carefully the information you desire, but am sorry to advise that I cannot make the analysis I would deem necessary from the test slips. Owing to the recent cold weather, it seems that same has so affected the test slips that a thorough analysis cannot be made, and I would not wish to advise you one way or the other unless I was certain of my ground. So I will ask that you send me a sample of your urine carefully wrapped by mail or express in a bottle. Four ounces will be enough for an analysis. Always send the first urine you pass in the morning after arising. It would indicate from your question blank that your surmise is correct from the lack of desire you now have that your system is not in the condition it should be to enjoy pleasures that are rightfully yours to the full [65] extent that you should. With the bottle of urine, kindly remit me \$2.50 to show your good faith, and cover cost, time and expense analysis. As I have to make a number of analyses every day, I cannot afford the time and

(Testimony of G. A. Leonard.)

expense unless the person is sincere and intends to take the treatment; therefore I ask for this deposit. However, if you start treating with me, I will credit this \$2.50 in your fee so that you will lose nothing. Please send me the sample of urine at once, so I can analyze same and report to you at an early date. Awaiting same and assuring you of my best care and attention at all times if you place your case in my hands, I remain,

Very sincerely yours,

Dr. L. J. JORDAN."

Here is a letter that was sent out of order; preceding that, was a mailed letter dated January 9, 1913, addressed to Mr. J. P. Millspaugh, General Delivery, Cherry Creek, Nevada, as follows:

"Mr. J. P. Millspaugh,

Cherry Creek, Nevada.

Dear sir:—

With the opening of my new Museum since the fire, I have instituted several new Departments. One of them you will be interested in.

Every man at times feels himself below par—not up to the standard in his mental, physical and sexual life. This condition is largely due to what we, for want of a better term, call 'Vital Leaks' that is, there is vitality wasted, which if retained and made use of would place you all to the good—more successful in business, more agreeable to your friends and more attractive to the opposite sex.

"The intense competition in all human endeavor

calls for live men, 'dead ones' and incompetents Oslerized.

"The secret of success is nervous energy, nerve force properly applied—nothing impossible to the man who has the strength to try for it. He wins.

"If you are unconsciously wasting this energy, you are handicapped [66] in all that goes to make life worth the living. Opportunity knocks at your door every morning; you are not at home.

"You go into the battle each morning with 100 units of strength, at night you have expended all the 100, you are all in and will fall below par. You fight a losing battle.

"If you were in such a condition, physically and mentally, as to begin the day with 150 units and use only 75, you would then realise what it means when we say, 'The battle belongs to the strong.' 'The race to the swift.' 'The fittest are chosen and alone survive.'

"My laboratory I have builded along scientific lines. I am prepared to measure and judge leaks—wasted vitality, sexual neurasthenia—through an examination of the urine and a series of questions honestly answered. I will be able to give you an honest diagnosis and direct you proper and true.

"Follow instructions with the inclosed slips, chemical test papers, return with Post Office Money or Express Order for two dollars and fifty cents to cover the expense, answer all the questions on the

(Testimony of G. A. Leonard.)

blank honestly. You will then be advised of the result.

Yours very truly,

Dr. L. J. JORDAN.

Chemical & Microscopical Department.

3 B. P. S.—Enclosed chemical test papers take the place of the bottle of urine called for in question blank.”

Under date of January 19, 1913, mailed at San Francisco on the 21st, is a letter dated January 19, 1913, addressed to Mr. J. P. Millspaugh,

Cherry Creek, Nevada.

“Dear Sir:—

How are you coming along? I am anxious to begin treatment in your case. Delay always makes it more difficult of cure. The principal object of your life today should be to become a well and strong man, able to cope with all the situations you [67] meet. The intense competition of life, both in love and business, is such that success comes only to those who fit themselves for and are able to stand the strain.

“The battle belongs to the strong. The race to the swift. The fittest is chosen and alone survives. The strength of all chains is measured by their weakest link. No man is stronger than his weakest organ. That organ is not strong that leaks and wastes vitality placed there by the economy of Nature for a definite purpose.

“Waste not thy seed on the stones by the wayside.

(Testimony of G. A. Leonard.)

“I can and will make you well and strong. I will repair the damage done by your own mistakes.

“If you wish to make a man of yourself, I will help you. The knowledge to do this does not come of itself, nor from ignorant friends. You have only the experience of yourself; I have the experience of thousands—saved and guided into the right road.

“Now tell me where the delay is and why you do not respond. I want to help you. If money is the cause, be frank and tell me. I may suggest a way within your means. Tell me all about it, the *curse* first and above all things.

Yours very truly,

Dr. L. J. JORDAN.”

2 AA.

That was after I had sent the blank and after he had requested the bottle of urine in place of the chemical test paper. A letter dated February 1, 1913, San Francisco, Cal., mailed the same date, is as follows:

“Mr. J. P. Millspaugh,
Cherry Creek, Nevada.

“Dear Sir:—

Having received no reply to my letters in answer to your communication some time ago, and thinking it possible that they may have gone astray, or may have been incorrectly addressed to you, I write to ask, if you receive this letter, that you will pardon [68] the apparent delay, and will at once give the matter of your treatment proper and prompt attention so

(Testimony of G. A. Leonard.)

that further complications may not have an opportunity to arise and cause you more trouble.

“I cannot understand how it is that you are content to let your case run on as it has and sacrifice your health for life, when, if you will only stop and consider for a few minutes that at this particular time, a restoration to perfect health and sexual strength can be affected within a short time; and I assure you that, if you will give yourself the proper attention, you will never regret doing so; but, if you do not take my advice, you will come to grief later on, believe me.

“My treatment is perfectly harmless, rest assured, and the long term of years over which my practice has extended, with the careful study of hundreds of cases that I have cured, has gained for me a reputation as a skillful and successful specialist.

“Trusting that I will hear from you on receipt of this letter and that you will get started after your case in earnest, I am,

Your friend,
Dr. L. J. JORDAN.

Dic. by S. N.”

The next letter, mailed at San Francisco, Cal., February 10, 1913, at 6 P. M. is as follows:

“Mr. J. P. Millspaugh,
Cherry Creek, Nev.

Dear sir:—

I hope your manliness and desire for fair play will result in a reply to this letter. Of course, I don't

want to take up your time with unnecessary correspondence. Do you want treatment? If so, I will be glad to take your case if you are sincere and earnest about it. I won't take it unless I can benefit you, and I don't want it unless you are sincere and unless, if you start you will give me your co-operation. Why the delay? Is it account lack of funds? No matter what the reason, I am willing to help you in any way, manner or shape that you desire. If you are hesitating account of lack of funds, I will say for your [69] information that you can pay me as you like, in monthly payments, or in advance. The main thing and most important is to relieve your condition. That comes before the cost. The constant loss and drainage of vital fluid from one's system is bound to sap his vitality and strength—and he naturally loses desire, and loses power to carry out his family duties in a satisfactory manner. It is just the same as undermining a house, or wall in a mine. Constant sapping or taking away supports, allows the whole thing to topple in an instant. So it is with the human system. Take its strength and support, and it crashes down. Now, Mr. Millspaugh, I think you will admit I have been fair with you. If you don't desire, or will not take up treatment, I make a direct appeal to your sense of honor and fairmindedness to write me a few lines stating so. If you do wish treatment, send me a bottle of the first urine you pass in the morning and I will analyze and report conditions, cost, etc., I

(Testimony of G. A. Leonard.)

will also credit this \$2.50 towards your fee if you start. Please don't carelessly overlook answering this letter. I thank you for your prompt attention to it.

Respectfully,

Dr. J. L. JORDAN."

Under date of February 18, 1913, I wrote Dr. Jordan a letter of which this is a carbon copy:

"Cherry Creek, Nev.

Dr. Jordan:

I have received your letter telling me that the cold weather spoiled the test papers so you couldn't make a test and wanting me to send a bottle of urine. You remember me doctor that you sent me 2 different pieces of test paper so I am sending the other one to you now, am sorry the other one didn't work for I am anxious to begin taking the treatment if you find I need it. I would send the urine *to* if I had some kind of a case to send it in. I remember now it was an awful cold day that I sent the other paper and I was outdoors a long time before I took it to the postoffice. [70] Now I do hope this paper will be all right and that you will let me hear all about what you find is the trouble with me.

Yours truly,

J. P. Millspaugh,

General Delivery."

The litmus paper, the second I sent, was soaked in a solution of tea, to which was added some salt, ammonia and a little library paste.

(Testimony of G. A. Leonard.)

Under date of February 25th, a letter mailed at San Francisco, California, the same date:

“Mr. J. P. Millspaugh,
Cherry Creek, Nevada.

“Dear Sir:—

This is in reply to yours of recent date. The chemical test papers and question blank were carefully and scientifically considered.”

Q. Did you send this man any purported urine?

A. No, I sent no urine, but the second litmus paper.

Q. Dipped in the same stuff as the first?

A. Yes.

“From this data it is my judgment that you have an excess of amorphous urates and phosphates, indicating wasted energy, anemia neurasthenia at the expense of some of the functions of the body. You require and demand treatment to place you on par with your fellow men.

“You will find the testicles are weak and flabby and are not manufacturing healthy spermatozoa. There is no evidence of Bright’s Disease or proof of Diabetes, although an overworked kidney may lead to both. You will find mucous strings flocculi or sediment in the urine indicating prostatic inflammation at the neck of the bladder, with the consequent loss of vitality and absence of complete sexual satisfaction absolutely required by all male animals of health.

“Your case is a complicated one requiring careful and scientific treatment on the part of any physician who takes upon himself the responsibility of treating you. If you give your [71] case into my hands I must have honest co-operation on your part, following to the letter my instructions.

“I will take your case and furnish all medicines required in the course of treatment for \$47.50 cash, or, if you wish to pay on time \$17.50 down and \$10.00 monthly; time required, about three or four months. If you accept either of these propositions, which are very liberal, kindly remit the amount with which to start in, and continue to do so until cured. Sexual neurasthenia results from the violation of the laws of health so impairing the system that it ceases to perform its functions.

“The victim is awakened by dreams, the result of this disturbance; this is continued, usually occurring at shorter intervals often accompanied by erotic dreams, until the organ becomes incapable of performing its function, producing a long line of reflex irritations and complications.

“You cannot afford to lose your stamina or to be a failure in life. Low spirits never bother the healthy. No one can be happy or successful unless well. There is latent power in every one—all it wants is to be awakened and cared for.

“Excepting an early reply, I am,

“Yours very truly,

“Dr. L. J. JORDAN,

Dict. by F. L.”

(Testimony of G. A. Leonard.)

The next letter is dated San Francisco, Cal., March 7, 1913.

“Mr. J. P. Millspaugh,
Cherry Creek, Nevada.

Dear Mr. Millspaugh:

It was my hope that you would be on my treatment list before this time. You know, and I know, that a condition such as yours, specially at your age, cannot be neglected without resulting very badly to you. That is the result of a cure will be harder to attain, it will take longer, and it will cost you a great deal more. I do not believe that you are the sort of a man to hesitate over the small amount asked, when you [72] know that my half century of experience, study, knowledge and ability are behind your case, watching it closely and giving it every attention. It is the same with everything, he who hesitates loses out. Nothing is to be gained by delay. I am saying this to you because I know from my long experience that men are careless and unless they are encouraged by the physician, they let matters go from bad to worse. Now, Mr. Millspaugh, let us get together. Let us work shoulder to shoulder to get the benefits you want, and must have, to become vigorous and strong. I made you a fee of \$47.50 cash, or if you wish to pay by the month, send me \$17.50 for the first month's treatment and then \$10.00 a month after. Isn't this fair? Can you ask for any fairer terms? If you start at all, do it now. Don't put it off. I *have* sincerely inter-

(Testimony of G. A. Leonard.)

ested in relieving you and wish to demonstrate the faith I feel in bringing about the results you desire.

“Remember, I am expecting to have you on my treatment list at once, if in any way possible. I thank you for your early courtesy in replying.

“Very sincerely yours,

“Dr. L. J. JORDAN.”

The next letter is dated March 8, 1913, mailed at San Francisco, California, the same date.

(Letter considered read, offered in evidence, and marked “United States Exhibit 2.”)

I think that is the one I sent the urine with.

The same is true of this exhibit “C,” as of the others, in regard to the way I managed it and the letters I wrote.

(Package marked “United States Exhibit No. 3.”)

The first letter is dated

“Oroville, June 29, 1912. Box 451.

Dr. Jordan,

Dear Doctor:

I have seen your advertisement and I want to know what you can do to help a young man who is having night losses in his dreams at night. I don't know anything about what makes them but as they have occurred several times I have thought [73] best to write to you about them.

Yours truly,

JOHN CAROWAY.”

Following that up we get this letter:

“San Francisco, Cal., July 1, 1912.

“Mr. John Caroway,
Oroville, Calif.

Dear Friend:—

I have your letter today and note what you say and the information you desire. I am mailing you today under separate cover a copy of my book *Philosophy of Marriage*, which I wish you would read over very carefully, as you will find information that may have some bearing on your case, the cause of same, etc. After you have read this book, then write me more fully about the history of your case since the beginning, and fill out and return the enclosed question blank. Also treat and return the chemical test papers so that I may analyze your urine. With this data, send a remittance of \$2.50, to show your good faith, and to cover expenses in analyzing the urine—then if you start treating with me, I will give you credit for this \$2.50, so in reality you will be out nothing. After I get this data, I can better diagnose your case and give you the information you desire. Write me freely and candidly; everything is kept strictly confidential.

It is evident from what you say that something is radically wrong with your system, and the generative organs. This should not be neglected. The book will explain the effect of neglecting this condition. I await your early reply, and you can be assured that

you will receive my very best individual attention.

Yours Sincerely,

Dr. L. J. JORDAN.

Dict. X."

The symptom blank is as follows:

"Name? John Caroway.

Postoffice? Oroville, Cal.

Express office? Do.

How long have you lived in your present location?

All my life.

Does the climate agree with you? Yes. [74]

Age? 20. Weight? 150. Height. 5 ft. 8 in.

Color of hair? Black. Color of eyes? Blue.

Are you married? No. If so, how long?

Your nationality? American.

Your occupation? None just now.

How long have you been so employed?

Does your work fatigue you? No.

Are you confined indoors? No.

Do you dissipate in any way? No.

What has been the cause of your complaint? Don't know.

How often do you have sexual intercourse? No much.

Is sexual intercourse satisfactory in every way? Yes.

Are the seminal discharges (during sexual intercourse) too quick or too slow? No; all right, I guess.

Do you lose any semen in your urine? Not that I know of.

Do you lose semen during movement of the bowels? Not that I know of.

Do you have emissions of semen at night with or without dreams? Yes, with dreams.

Does the semen ever pass from you during the day when you have amorous thoughts or when in company of women? No.

Are you attended by erections? Yes.

Are the erections weak? No.

Is there any loss of sexual desire or power? No.

Have your privates wasted or become small? No.

Is the prepuce (foreskin) long? Not very.

Have you any Varicocele (a knotted condition of the veins in the scrotum or bag)? No.

Are the erections strong? Yes.

Does the scrotum hang low? No.

Is there stricture (obstruction) in the water passage? No. [75]

How often do you urinate? 4 or 5 times a day.

What is the appearance of the urine? Light yellow.

Is its passage painful? No.

What is the condition of your stomach? All right.

What is the condition of your bowels? All right.

Are you troubled with piles or pinworms? No.

Is there any inflammation or soreness of the rectum? No.

Are you ruptured, if so, describe same, and do you wear a truss?

Are you restless and wakeful at night? No.

Have you ever had gonorrhoea (clap)? No.

(Testimony of G. A. Leonard.)

Have you ever had gleet (gonorrhoea over three months)? No.

Have you ever been under treatment? No.

If so, by whom and how long?

Could you call, if necessary? No."

That is a copy of the blank I sent to him. With that I wrote this letter.

"Oroville, Cal., July 14, 1912.

Dr. Jordan.

Dear Doctor:—I have received your letter and the paper and I have not answered before because I have been wanting to get the bottle to mail the urine in and I didn't get it till today."

I have a note there: "Dr. Jordan, S. F. Letter addressed to Paul Allen. Litmus paper soaked just an instant in three ounces water, to which was added five tea leaves, five drops of ammonia and pinch of salt. Sample of this solution forwarded same date as urine." The bottle contained the same mixture.

The next letter is July 26, 1912.

"Mr. John Caroway,

Oroville, Calif.

Dear Sir and Friend:

Ten days ago I wrote asking you to send me another sample of your urine for analysis. I analyzed the former liquid you sent me, but this analysis was not to my liking and I want another test made. Kindly send it at once, as you have [76] already paid for the analysis and I will make the second one free.

"Yours sincerely,

Dr. L. J. JORDAN.

Dict. X."

(Testimony of G. A. Leonard.)

I sent two bottles. There was practically no difference between the contents of the two bottles, only salt had been added; in the second bottle we added a certain amount of salt—practically the same mixture with the addition of salt. On August 7, 1912, I wrote another letter.

“Dr. Jordan.

Dear doctor: I have received your letter asking me for more information about my case and wanting some more urine saying the specific gravity of that I sent you was only 1011. Now, I don't know anything about what you mean by the specific gravity of it I am sure so I just made the water in the bottle and sent it to the office for mailing by my brother, now I have had these losses a year or two and I have one about every 3 weeks or so. I would have wrote you before but the postmaster here would not let me mail the bottles unless it was packed in a tin box so I had to get another and the man at the drug-store had to send away for it. Now please let me know soon what you think is the matter with me.

Yours truly,
JOHN CAROWAY.

Box 451.”

There is another one of July 11th. Here is another of July 16, 1912. “I thank you for your remittance of \$2.50, which I have credited to your account.” That is the one acknowledging receipt of the first bottle.

Mr. PRESTON.—(Reading:) “I also received your letter and the question blank and bottle of liquid. As to this sample you sent me, there is noth-

(Testimony of G. A. Leonard.)

ing present to indicate the presence of urine. The specific gravity of same being 1001, practically the same as water. I must ask you to send me another sample. Be sure and send the first urine you pass in the morning after arising, and send a little larger quantity, I want to make another test, and must do so before [77] I can give you the correct diagnosis. It is for your own good that I ask you to do this. It will not be necessary to pack the sample of urine in tin box. Wrap it well with fine paper, and enclose it in coarse paper wrapper and it will come O. K.

I will also ask you to give me further information regarding the history of your case; how long have losses occurred; when did same start; (at what age), and any further information you think I should have. Kindly do this at once, so I can send you a report.

Yours sincerely,

L. J. JORDAN.

Here is another letter of August 8, 1912.

“Dear Sir and Friend:—

“I am in receipt of the sample of urine you sent me this morning, and upon analysis I find that there is no sugar present, but there is a great deal of albuminous material—which is very probably waste energy and excessive losses. This is a condition that should have your immediate attention and care. No delay should be allowed by a person of your age.

“The weakening effect on the system is bound to be injurious and have a tendency to weaken you,

undermine your health, and leave the system more accessible to the ravages of disease.

“The human body can be compared to a piece of machinery. If any part of the body is subjected to abuse, or over-work, that part is sure to become weak, and unable to perform its functions properly. Then it must be repaired at once, or the whole machine is bound to go to pieces. A little care and attention in the beginning will set matters aright. The evil effect of losses has a pronounced tendency to weaken the whole human body. It begins at the nerves, and through them impairs the uses of the eyes, ears, heart, lungs, bladder, kidneys, etc. The treatment necessary to restore them must be genuinely good. New blood, new bone and new cells, fibres, and tissues must be placed instead of the old decayed matter. The blood must be purified and sent [78] in an invigorating and sustaining *stem* through the organs to nourish the parts.

“If you place your case in my hands, I must have your co-operation and assistance. I do not want to take any case, as I cannot afford to sacrifice my reputation, unless the patient is sincere and honest in his desires. However, the fact that you were willing to pay for analysis of urine shows that you are interested, and I am impressed with your evident sincerity. I promise you that you will be benefited if you will place your case in my hands and follow out your instructions and advice. I am willing to make it a very easy method of payment, in order to help you get started. I will send you the first

(Testimony of G. A. Leonard.)

month's medicines for \$15.00, and then you can pay me \$10.00 a month thereafter. Usually a condition of this kind requires from 2 to 4 months for a cure. You came to me in good time, however, and I am sure you will be benefited very materially in a short time.

"All remedies are prepared in my own laboratory, and under my personal supervision. All packages are sent out without marks of any kind to denote where they come from. Everything is done to protect the patient. May I expect your initial remittance of \$15.00 by return mail. If you treat at once, I am positive you will never regret placing your case in my hands, and I assure you of my earnest efforts in your behalf at all times. Kindly let me hear from you at once.

"Yours very sincerely,

"Dr. L. J. JORDAN."

Another letter dated August 10, 1912.

"Mr. John Caroway, Box 451, Oroville, Calif.

Dear Friend:

I have your letter of the 7th inst., and note what you say. I wrote you on the 7th, and you probably had not received my answer when you wrote. The first bottle you sent me, the urine was very low in Specific Gravity—which means that it was of [79] very poor quality—about the same as ordinary water. The specific gravity to be normal should be from 1011 to 1022. However, the last urine you sent me tested about 1024, indicating that there was albuminous material present—most probably indicating waste energy and excessive losses of vital fluids.

“It is evident that your system is becoming very weakened from the losses you are sustaining. The system may become in this condition from various causes, as excess, injury, sickness, or self-abuse, etc. Probably one of the greatest contributory causes results from boys abusing themselves. This naturally tends to weaken the organs and unfit them to perform their functions properly. The body is like a delicate piece of mechanism—if any particular part is subjected to abuse or strain, that certain piece naturally will give way under the strain—and needs repair before it breaks down entirely and throws the whole system out of order. I believe this is the clearest way to explain it to you. The system then needs a tonic and restorative. The parts that are lacking in power and strength must be built up to normal. New bone, new blood, new secretions, new muscle, tissues and cells must be replaced instead of the old decayed and lifeless parts now in the system. As I stated in my letter to you on the 8th inst. I will send you the first month’s treatment for \$15.00, and then you can pay me \$10.00 a month after that.

“You are young and probably have good health in every other way except weakness. Your system should respond very quickly to the treatment and the chances are a very few months will completely restore you. I have made it a point never to take any case unless the patient is sincere and honest in his intentions. I cannot afford to take cases where the patient is merely trifling, or a curiosity seeker. However, your letter impressed me very much and

I believe you would make a very desirable patient and follow out my [80] instructions and advise to the letter, in order to obtain the desired results at the earliest possible time. I know that you will recommend my methods to any suffering friends after you have become cured.

“Kindly do not allow any delay in the matter. If you start now you have the best time of the year to treat, as it is coming on cool weather.

“All medicines are sent carefully packed, and without marks of any kind on the packages to denote whom they come from. I protect the patient in every way.

“Hoping to receive your remittance by return mail and assuring you of my best efforts at all times in your behalf, I remain,

“Very sincerely yours,

“Dr. L. J. JORDAN.

Diet. X.”

One dated August 21, 1912:

“Mr. John Caroway, Box 451, Oroville, Calif.
Dear Friend:

“I had been expecting I would have your case ere this. I don't know why you don't even write me in answer to my letters. I am sure I have tried to do my best to get you started. You have paid me money for analysis of urine, which you will lose if you do not take treatment. I don't want to see you do this. Send me \$15.00 for the first month's treatment at once. This is very reasonable and the small fee is made especially to get you started. Then you will

only have to pay \$10.00 a month 3 or 4 month's treatment will no doubt place you in proper condition. Let me hear from you at once.

“Very sincerely yours,

“Dr. L. J. JORDAN.

Dict. X.”

Here is another letter dated September 3, 1912.

“Mr. John Caroway, Oroville, Calif.

Dear Sir:

I had rather expected you would be courteous enough at least to reply to my last letter, and state your intentions. [81] If you do not want to take up treatment with me, why, well and good—but if you do intend to treat with me, why then, I naturally want your case before too many complications develop. You have already invested \$2.50—why not continue, as you will suffer an entire loss by not starting now. I made you what is really a low fee for treatment, or \$15.00 for the first month and \$10.00 a month thereafter. You will know when you treat with me, that you have all the knowledge, skill and experience that Dr. Jordan has gotten through years of study and experimentation. Could any proposition be any more fair? I hope you will not cast this letter aside, but instead that you will sit right down and remit for the first month's treatment. Remember, the winter will soon be upon us—and why not become a man before 1913 rolls around? Isn't it worth the while, and the expenditure of a small amount of money? Can you afford to neglect yourself?

I leave it to your own good judgment at this time to do as you see fit, but as a young man of good sense and knowledge, I think you will choose the proper course.

Awaiting your early reply, I am,

“Very sincerely yours,

“Dr. L. J. JORDAN.

Dict. X.”

Another one dated September 12, 1912:

“Mr. John Caroway,
Oroville, Cal.

Dear Sir:

I have written you several letters without a reply, and I cannot understand whether you received my letters or not. The only way I could find out whether they went astray would be to write the postmaster at Oroville, telling him the date I wrote them to you, and that as you were considering taking treatment, I deemed it my duty to reach you if possible. However, I do not like to write to your postmaster, as it might be embarrassing to you—so I hope this letter will reach you direct. You have paid me \$2.50, which I don't wish to see you lose, and ask that you remit [82] \$15.00 for the first month's treatment. I made this very low fee to get you started. Then you can pay me only \$10.00 a month thereafter. Isn't this a fair way to you? Is there anything else that I can do to get you started? If so, let me know. I am willing to go any length. Kindly reply to this

so I will know whether your mail is being given to you or not.

“Very sincerely,

“Dr. L. J. JORDAN.

Dict. X.”

I did not write any more letters in September.

Here is one dated June 12, 1913:

“Mr. John Caroway,

Oroville, Cal.

Dear Sir:

How are you coming along. I am anxious to begin treatment in your case. Delay always makes it more difficult of cure. The principal object of your life today should be to become a well and strong man, able to cope with all the situations you meet. The intense competition in life, both in love and business, is such that success comes only to those who fit themselves for and are able to stand the strain.

“The battle belongs to the strong. The race to the swift. The fittest is chosen and alone survives. The strength of all chains is measured by their weakest links. No man is stronger than his weakest organ. That organ is not strong that leaks and wastes vitality placed there by the economy of Nature for a definite purpose.

“Waste not thy seed on the stones by the wayside.

“I can and will make you well and strong. I will repair the damage done by your own mistakes.

“If you wish to make a man of yourself, I will help you.

“The knowledge to do this does not come of itself,

(Testimony of James W. Woltz.)

nor from ignorant friends. You have only the experience of yourself. I have the experience of thousands—saved and guided into the right road. [83]

“Now, tell me where the delay is and why you do not respond. I want to help you. If money is the cause, be frank and tell me. I may suggest a way within your means. Tell me all about it, the cure first and above all things.

“Yours very truly,

“Dr. L. J. JORDAN.

2AA.”

“P. S.—If you wish to take up treatment at this time, I will allow the same terms as when I wrote you some time ago, or \$15.00 for the first month and \$10. a month, thereafter.”

That is all the correspondence, the test correspondence, that I have. I was never down at the Jordan Museum. I have heard there was a Dr. Jordan there, but not now. I have seen the defendant here but I am not personally acquainted with him.

Testimony of James W. Woltz, for Plaintiff.

JAMES W. WOLTZ, called as a witness on behalf of the United States, after being duly sworn, testified as follows: My name is James M. Woltz. Covering the period of 1912 and 1913 I was employed by the postoffice department of the Government. I conducted some test correspondence with reference to the Jordan Museum of Anatomy here. I wrote some of the correspondence in Government's Exhibit “C” for identification, and received some at my office. What purports to be an advertisement—a newspaper

(Testimony of James W. Woltz.)

slip—I got that from the San Francisco “Examiner” at my office in Washington, D. C., on March 17, 1912. That was the date of the newspaper. I wrote the letter headed “Tombstone, Arizona,” addressed to Dr. Jordan. That is a true copy of it. It is as follows:

“Dr. Jordan,
“986 Market Street,
“San Francisco, Calif.

“Dear Doctor:

“Will you please send me your book *Philosophy of Marriage*, which I see in an advertisement of the San Francisco [84] Examiner you will send free.

“I want to get married but have not set any date as I want to see some doctor first and thought your book might have in it what I want.

“Please address me here.

“GEORGE R. ALBERTS,
“Box 1648, Tombstone, Ari.”

A letter dated May 27, 1912, was received in reply to it on June 3, 1912. It is as follows:

“Mr. George R. Alberts,
Box 1648, Tombstone, Ariz.

Dear Sir:

This to acknowledge the receipt of your favor of recent date. I am mailing to you by this mail my book ‘*The Philosophy of Marriage*,’ under separate cover. Should it not arrive promptly, please notify me.

“This book will give you valuable information on Sexual Hygiene, and the care of the functions that

go to make the boy and man a success in his work, and above and beyond all, live a happy married life.

“All dominant magnetic men are sexually strong. They are attractive and commanding to both sexes.

“My space here and in the book forbids a discussion of special or particular cases. I will be pleased to discuss your case, or give you any further information you may desire, in plain language, so that you will have a clear understanding. The same to any friend of yours you know to be making mistakes, if he will write me.

“I have touched on the practice known as Onanism (self-abuse), because of its very great importance to men in all walks of life. It is a great factor in the success and happiness of a man’s business and matrimonial career. It is a brain and nerve leak readily curable. If not cured and every trace of the injury done removed, no matter how late in life, disaster and failure are sure. [85]

“Tell me your story in confidence. I will advise you true. The secret of success is nervous energy. The hustling spirit of enterprise is only an expression of that energy. Nothing is impossible to the man who has the strength to try for it. No man has strength who allows vitality to constantly leak or waste away. The one is courageous and brave, the other is a coward.

“I call your attention to another important factor: The effect and cure of Gonorrhoea, Syphilis and other venereal disease, both remote and recent. Sometimes the entire life is changed by bad advice

(Testimony of James W. Woltz.)

and by ignorant treatment by persons pretending to know, leaving results removable only by the expert specialist. All diseases of this nature are curable. Their effects on the stomach, kidneys, liver and nervous system are removable.

“Answer all the questions on the enclosed blank, then mail to me with the return of the two slips, after following directions printed on the envelope.

“Trusting to hear from you at an early date, I am,

“Very truly yours,

“Dr. L. J. JORDAN.

“P. S.—Inclosed chemical test papers take the place of the bottle of urine called for in question blank.

Diet. by O. A.”

I sent this letter in reply, a copy of which is:

“Your letter to hand and I am sending the paper you sent to me all filled out as well as I know how. If you will please write to me about how much it will cost to cure me also how long it will take, so I may know about what to do, I will be very glad.

“Very truly yours,

“GEORGE R. ALBERTS.

“Box 1645.”

Here is the symptom blank that I sent, a copy of the blank I sent; after, I received the reply as follows, dated June 7, 1912: [86]

“Some time since, on your request, I mailed you a copy of my book, ‘The Philosophy of Marriage,’ which I trust you have received and read with care.

“I presume you are suffering with some ailment

you do not understand and from which you desire relief. A knowledge of sexual hygiene, self and sex and their relation to life and health, diseases of life-giving organs, vicious practices and their results and sequelae do not come intelligently of themselves, nor correctly from ordinary every-day sources, nor by the advice of ignorant friends.

“False modesty no doubt prevents you consulting one who has given his entire professional life in guiding thousands along the road to health, happiness and success. I want your confidence, as others have given it during all of my professional career.

“I am sure you wish to make a man *for* yourself; you do not want to be a failure before your time. You wish vigor and stamina in order to overcome the difficulties you meet in the battle for existence. To do this you must not be handicapped by weak organs. You must be strong in the loins and gird them up, as directed in the Good Book. No chain is stronger than its weakest link. Ships in storms are at the mercy of the weakest bolt.

“Self-pity and the demon of discontent, the weight that holds thousands back, is caused by ill health of one or more of the vital functions.

No matter who you are, no matter how much money you have, no matter if you are able to pay cash, no matter if you must have terms, no matter what the conditions, you cannot afford to neglect yourself. Self-preservation is the first law of nature. This relates to your health, as well as fighting to defend

your life, or the life and health of your offspring.
[87]

“Therefore return my blank with the questions all answered. Do not allow a secretive nature, engendered by this condition and a symptom of it, to delay and prevent you obtaining a complete cure.

“Do not allow money matters to interfere. I assure you that all charges will be reasonable and within your means. We have never worked a hardship on anyone. Answer immediately.

Very truly yours,

“Dr. L. J. JORDAN.

“Dict. by T. B.”

Another one dated June 11, 1912:

“This is in reply to yours of recent date. The chemical test papers and question blank were carefully and scientifically considered. From this data it is my judgment that you have an excess of amorphous urates and phosphates, indicating wasted energy, anemia neurasthenia at the expense of some of the functions of the body. You require and demand treatment to place you on par with your fellow men.

You will find the testicles are weak and flabby and are not manufacturing healthy spermatozoa. There is no evidence of Bright's Disease, or proof of Diabetes, although an overworked kidney may lead to both. You will find mucous strings flocculi or sediment in the urine indicating prostatic inflammation at the neck of the bladder, with the consequent loss of vitality and absence of complete sexual

satisfaction absolutely required by all male animals of health.

“Your case is a complicated one requiring careful and scientific treatment on the part of any physician who takes upon himself the responsibility of treating you. If you give your case into my hands I must have honest co-operation on your part, following to the letter my instructions. [88]

“I will take your case and furnish all medicines required in the course of treatment for \$50.00 cash, or, if you wish to pay on time, \$20.00 down and \$10.00 monthly; time required, about three or four months. If you accept either of these propositions which are very liberal, kindly remit the amount with which to start in, and continue to do so until cured. Sexual neurasthenia results from the violation of the laws of health so impairing the system that it ceases to perform its functions.

“The victim is awakened by dreams, the result of this disturbance; this is continued, usually occurring at shorter intervals often accompanied by erotic dreams, until the organ becomes incapable of performing its function, producing a long life of reflex irritations and complications.

“You cannot afford to lose your stamina or to be a failure in life. Low spirits never bother the healthy. No one can be happy or successful unless well. There is latent power in every one—all it wants is to be awakened, and cared for.

“Expecting an early reply, I am,

“Your very truly,

“Dr. L. J. JORDAN.

“Dict. by F. L.”

Here is a letter written on the 8th and sent to the postmaster at Tombstone, Arizona to be deposited in the mail. It reads as follows:

“Dr. L. J. Jordan,
#986 Market St.,
San Francisco, Calif.

Dear Doctor:

Your letters all were received., I think I have delayed writing you and thought maybe I would be able to get hold of the money to send you for the monthly treatment, but it is pretty hard to do that just now with the cost of everything so hard to get and high. So I will have to wait a while longer.

Very respy.,
GEO. R. ALBERTS,
Box 1648.” [89]

This is the reply, dated August 20, 1912.

“Dear Sir and Friend:

I have your letter this morning, and am very glad to hear from you, I am sorry there has been so much time wasted, as if I had your case shortly after you wrote me first—you would be well on the way to recovery of a strong sexual and physical condition before this time. I do not wish to keep any man from receiving the help he needs on account of money.

“I have found through experience that even if I have to treat a man for absolute cost of medicines, etc., that it will pay me, because the patient is grateful and after he becomes cured he will naturally

recommend his friends to me, and in that way I am benefited. I know and realize that money is a hard thing to get—but, my dear sir, just stop and realize that perfect health and sexual vigor is worth more than all the money in the world to you. You cannot afford to let your condition run along any further. The losses and strain that is now imposed on your system is causing harm that you will ever regret—and the longer this occurs, remember the harder and more costly it is to cure. You have already perhaps noted one effect; that is, wasted organs. That will show where the drain is sapping the very strength and vitality of the system. You no doubt have the same aspirations that a young man has. You have thoughts of the enjoyments of a happy home, a loving wife and family, and peace and contentment—but you know and realize that you cannot afford to marry while in your present condition. It would shame and disgrace you, and humiliate any girl you made your wife. You could not give her the happiness she would expect—and I don't think you are the man to disappoint anyone—not if I judged your character from your first letter in the right light.

“Now, I am going to make you a proposition. I think we can be of mutual benefit to each other, and I am going to reduce the [90] cost of treatment to as low a fee as possible, and come out even myself. If you will start the treatment this month, I will send the first month's course for \$10.00 by express. Then you can send me \$7.50 per month

thereafter. I hope you will take advantage of this, Mr. Alberts, as it is really a very extraordinary offer—but I don't want to see you neglect yourself any longer, and I know that if you do—it will be a hard case to restore; hence for your own sake I suggest that you exert every effort to start treatment this month.

“Three or four months' consistent treatment will no doubt place you in perfect physical, sexual and mental efficiency.

“I hope you will appreciate my efforts. I feel sorry for any young man in your state, and especially one whom I know to be honest and sincere in his intentions—as I believe you are. There is absolutely no reason you should be lacking in those manly qualities. All it requires is a scientific treatment and your co-operation. May I have it at once?

“Please reply to this letter, and if possible remit at once so I may have your name on my list before the 1st of September. Let me hear from you anyhow, as to what you will decide to do. I thank you for a reply.

“Yours very sincerely,

“ Dr. L. J. JORDAN.”

Here is one dated June 13, 1913, the last final appeal:

“Once again I take the opportunity of writing to you to ask why it is that you have failed to even reply to my letters and have failed to show the least interest in your future health and welfare which you

(Testimony of James W. Woltz.)

know will be permanently blighted if you continue to neglect yourself as you have ever since writing to me.

“I can assure you that I have taken a more than ordinary interest in your particular case and have done all possible to urge you into action and see the necessity of treatment now, but you [91] have not even answered me to say what your intentions were or what you had done in this matter.

“It is immaterial to me whether or not you take my treatment, but I am interested in your case and wish to see you well and, in fact, it would be a pleasure for me to treat you free of charge to know that you had taken treatment and have been cured.

“I am sure you have acted in this way in a perfectly thoughtless manner, and, in fact, it is due no doubt to the inroads made upon you by this disease; therefore, I will ask you again to kindly answer my letters and if you wish treatment let me know or, if not, be kind enough to show your appreciation of the interest taken in you, by at least advising me what disposition to make of the records I have of your case.

“Expecting some reply, if only through courtesy, I am,

“Yours very truly,

“Dr. L. J. JORDAN.

“Dic. by T. N.”

Cross-examination.

When I prepared this bottle, it did not occur to me that a man who was passing in his urine am-

(Testimony of James W. Woltz.)

monia, tea, salt, and library paste would be in a normal, healthy condition.

Tuesday, April 27, 1915.

Testimony of Edmond Honvery, for Plaintiff.

EDMOND HONVERY, called as a witness on behalf of the United States, after being duly sworn, testified as follows:

Mr. PRESTON.—I do not think I made a formal offer of the contents of the file exhibit “C” for identification. I would like to do that at this time.

Mr. FAIRALL.—We make the same objection.

The COURT.—The objection is overruled.

Mr. FAIRALL.—Exception. We also make a motion to strike out. [92]

The COURT.—The motion is denied.

Mr. FAIRALL.—Exception.

A. My business is postoffice inspector and I am located at Washington, D. C. I have been postoffice inspector since 1912. As part of my business, I supervised certain tests, what was called test correspondence, with reference to Dr. L. J. Jordan here, or the Jordan Museum of Anatomy.

Q. From whom, if anybody, did you get your orders in connection with such matters?

Mr. FAIRALL.—We object to that upon the ground that it is irrelevant, immaterial and incompetent.

The COURT.—The objection will be overruled.

Mr. FAIRALL.—Exception.

A. Directly from the chief inspector who was my predecessor under the Postmaster. I am now chief

(Testimony of Edmond Honvery.)

inspector located at Washington, D. C.

Upon the initiative of the chief inspector this investigation was begun. This package purports to be a file of test correspondence conducted by me under the name of Anson Ashford, Buckley, Washington, with Dr. Jordan, 986 Market Street, San Francisco. The first act done under the name of Anson Ashford by me is this paper here, a carbon copy of a letter, which was written by me October 12, 1912. I will read it.

“Buckley, Wash., Oct. 12, 1912.

“Dr. Jordan,

San Francisco, Cal.

Dear Doctor:

I have seen your ad. in the papers and as I would like to consult you about my case you would let me know full particulars about your treatment. Hoping to hear from you soon, I am, yours very sincerely,

ANSON ASHFORD,

Gen. Del.”

The original of this letter was put in an envelope, a stamp put on it, addressed to Dr. Jordan, 986 Market Street, San Francisco, California, then it was placed with this letter of instructions [93] in an official envelope and sent to the postmaster at Buckley, Washington, with instructions to mail it at Buckley, Washington, and if any reply or any letters were received at Buckley, Washington, addressed to Anson Ashford, General Delivery, they were to be sent to me at Washington, unopened

(Testimony of Edmond Honvery.)

under official cover. In response to that, the first letter received from Dr. Jordan came in an envelope postmarked San Francisco, California, October 5, 1912, addressed to Mr. Anson Ashford, General Delivery, Buckley, Washington. Then followed that a letter postmarked San Francisco, California, October 25, 1912. Then I filled out the symptom blank on October 29, 1912, and sent it to the postmaster at Buckley, Washington, for mailing, accompanied with \$2.50. It was sent by registered mail. I received a return registry card signed by Paul Allen, and a letter mailed at San Francisco, California, November 7, 1912; another letter mailed November 18, 1912; another letter postmarked December 3, 1912, San Francisco, Cal.; a further letter postmarked San Francisco, Cal., December 14, 1912; another letter postmarked December 26, 1912; another letter postmarked January 5, 1913, and a last letter postmarked June 30, 1913. These various *letter* were received by me under official cover from the postmaster at Buckley, Washington, unopened. I opened them in Washington. I sent out the first letter and the symptom blank and received nine letters. I sent \$2.50 and two postage stamps, \$2.54, and registered the letter. I did not take any treatments. I sent a sample of urine with the symptom blank. The contents of that bottle are water, a little tea, a little ammonia and glucose. I sent a similar bottle of the same kind of content. There was mixed four ounces of the stuff, and two ounces were sent

(Testimony of Edmond Honvery.)

and two ounces were retained. This is the two ounces that I retained.

(Offered in evidence and marked "exhibit 6.")

[94]

There was no litmus paper sent.

Q. Without reading any of the correspondence excepting the symptom blank, I will give you just a little idea what this man was suffering from:

"Name. Anson Ashford.

2. Postoffice? Buckley, Wash.
3. Express Office? Buckley, Wash.
4. How long have you lived in your present location? All my life.
5. Does the climate agree with you? Yes.
6. Age? 25. Weight, 180. Heights, 5-11.
7. Color of hair? Brown. Color of eyes, Brown.
8. Are you married? No.
9. If so, for how long?
10. Your nationality? American.
11. Your occupation? Farmer.
12. How long have you been so employed? 10 years.
13. Does your work fatigue you? Yes.
14. Are you confined indoors? No.
15. Do you dissipate in any way? No.
16. What has been the cause of your complaint?
Dreaming off nights.
17. How often do you have sexual intercourse?
Not very often.
18. Is sexual intercourse satisfactory in every way?
Yes.

19. Are the seminal discharges (during sexual intercourse) too quick or too slow? Just right.
20. Do you lose semen in your urine? Don't know.
21. Do you lose semen during movement of bowels? Don't know.
22. Do you have emissions of semen at night with or without dreams? Yes, with dreams.
23. Does the semen ever pass from you during the day when you have amorous thoughts or when in company of women? No.
24. Are you attended by erections? Yes.
25. Are the erections weak? No. [95]
26. Is there any loss of sexual desire or power? No.
27. Have your privates wasted or become small? No.
28. Is the prepuce (foreskin) long? No.
29. Have you any varicocele (a knotted condition of the veins in the scrotum or bag)? No.
- 29½. Are erections strong? Yes.
- 29¾. Does the scrotum hang low? No.
30. Is there stricture (obstruction in the water passage)? No.
31. How often do you urinate? 4 or 5 times daily.
32. What is the appearance of the urine? I suppose all right.
33. Is its passage painful? No.
34. What is the condition of your stomach? All right.

(Testimony of Edmond Honvery.)

35. What is the condition of your bowels? All right.
36. Are you troubled with piles or pinworms? No.
37. Is there any inflammation or soreness of the rectum? No.
39. Are you ruptured, if so, describe same, and do you wear a truss? No.
40. Are you restless and wakeful at night? No.
41. Have you ever had gonorrhoea (clap)? No.
42. Have you ever had gleet (gonorrhoea over three months)? No.
43. Have you ever been under treatment? No.
44. If so, by whom, and how long?
45. Could you call, if necessary? No, too far away."

Under date of November 7th the following letter is written Mr. Anson Ashford on the letter-head which has already been described:

"Dear Sir and Friend:

I thank you for your remittance of \$2.50 which I have credited to your account. I also received the sample of urine and the question blank and other data. Same was carefully considered and the urine analyzed, and I find your condition is quite serious. The urine shows large percentage of sugar, showing a serious condition known as Diabetes. Immediate treatment is necessary, [96] and my suggestion would be that you take up treatment at once. This is affecting the kidneys and no doubt causes the pains you mention. Do you ever feel a numb feeling at the ends of your fingers, or toes, ears, nose,

etc.? Your condition is very weak, as is shown by emissions at night, and it is my opinion that your case is quite complicated. The losses at night have a tendency to weaken you, and derange the nervous and sexual systems. It causes loss of appetite, little desire for work; lack of memory, embarrassment, pains in sexual organs, weak eyes; lack of confidence and strength. The cells, muscles and tissues become wasted through an insufficient supply of blood or blood that is very much decreased in nourishing power. Your system needs a strong tonic and restorative, not merely a stimulant. Something that will build new blood, new muscles and new tissues, and throw off the decayed and waste substances, engorging the parts with a supply of fresh, pure blood, and building the entire system up to normal.

“Whether you treat with me or not—I advise you to seek at once the services of a competent and reputable physician; one that you know is above the average. If you do treat with me, I can promise you results if you give me your co-operation and follow out my instructions and advice. I want no man’s case unless he is honest and sincere and wants to be benefited. I am a very busy man and have no time to dissipate with triflers. From the fact that you sent me \$2.50 for a report, I think you are sincere and that you would make a desirable patient. I have spent the greater part of a lifetime treating, studying and curing the diseases of men, and have won a reputation that is second to none by my fair methods to all.

(Testimony of Edmond Honvery.)

“I am willing to take your case on that condition—namely that you will obey my instructions and take my treatment faithfully. I will give you credit for the \$2.50 you paid me, and send you the first month’s medicines for \$22.50. Then I will reduce your [97] fee after the first month to \$15.00 a month. I make this offer of monthly payments as it may be more convenient for you to pay in this manner. A few months will put you in good condition, and if you start now, you will notice very good results in a short time—but my dear young man, whatever you do, don’t let this condition run along. If you want help, I can give it to you and would like to have your case at once. May I expect you on my list by return mail? You have youth and perhaps a good constitution, and your rapid and complete recovery should be gained without the possibility of failure.

“Hoping to have your remittance by return mail, I am,

“Yours sincerely,

“Dr. L. J. JORDAN.”

The COURT.—Who signed that?

Mr. PRESTON.—Dr. L. J. Jordan. The handwriting varies, but the signature is the same.

Mr. FAIRALL.—They are typewritten, aren’t they?

Mr. PRESTON.—The letters are typewritten. The signatures are in ink.

Under date of November 8, 1912, the following:

“Mr. Anson Ashford,
Buckley, Wash.

Dear Sir and Friend:

As it is about ten days ago since I wrote you, and not having had a reply, I thought perhaps my letter did not reach you. I received your remittance of \$2.50, for which I thank you and analyzed the *same* of urine—which denotes that you should take treatment at once and I made you a monthly payment fee if you wish to treat with me. That is, I will send the first month’s medicines for \$22.50, and then you need only pay \$10.00 a month thereafter.

“From my long experience I can treat you successfully if you give me your case at once. However, I never take a case unless a patient is honest and sincere in his intentions and will follow out my instructions and advice. I cannot afford to give up my time, or *trest* patients that are insincere. It would hurt my reputation. [98] However, if you start at once, your case will progress nicely and favorably from the start. But as I stated, your condition is one that demands immediate attention, and my dear young man, you must not neglect it. At your age, this condition should not occur. You would be doing yourself a great injustice and immeasurable harm. Once virility and strength is entirely lost, it can never be regained. Your data that I have shows the system is gradually growing weaker from resultant effects, and each day means a great deal to you. I would like to treat you—knowing and believing that you would be more than

satisfied with results. If you start at once, remit me \$22.50 for the 1st month's treatment, and I will at once send same by express. There are no marks on express packages to denote who ships it. Everything is private. Kindly reply at once.

“Very sincerely,

“Dr. L. J. JORDAN.”

December 14th there is another letter as follows:

“Once again I take the opportunity of writing to you to ask why it is that you have failed to even reply to my letters and have failed to show the least interest in your future health and welfare which you know will be permanently blighted if you continue to neglect yourself as you have ever since writing to me.

“I can assure you that I have taken a more than ordinary interest in your particular case and have done all possible to urge you into action and see the necessity of treatment now, but you have not even answered me to say what your intentions were or what you had done in this matter.

“It is immaterial to me whether or not you take my treatment, but I am interested in your case and wish to see you well and, in fact, it would be a pleasure for me to treat you free of charge to know that you had taken the treatment and have been cured.

“I am sure that you have acted this way in a perfectly thoughtless manner and, in fact, it is due no doubt to the inroads made upon you by this disease; therefore, I will ask you again to kindly

[99] answer my letters and if you wish treatment let me know or, if not, be kind enough to show your appreciation of the interest taken in you, by at least advising me what disposition to make of the records I have of your case.

“Expecting some reply, if only through courtesy, I am,

“Yours very truly,

“Dr. L. J. JORDAN.

“Dic. by T. N.”

Under date of December 26, 1912:

“I do not understand why you do not reply to my letters. Haven't you been getting them? I wrote to the postmaster at Buckley asking if you had changed addresses, or if your mail was held up anywhere, as you sent me data from which I learned you were badly in need of treatment and wanted to reach you. However, I thought I had better not mail this letter to the postmaster, but wait and write you again first to see if I could get a reply. There must be something wrong somewhere, as you evidently were in earnest when you sent me \$2.50 for a report, and after I told you your condition, I don't see how you can continue to be careless. Remember you have but one life to live, and you better protect your health. Your condition is such that if you delay much longer, you will become in such a way that a cure will be very hard to bring about—if at all. If you don't wish to take treatment with me, well and good, but please write me to that effect so I can file my records of your case. I don't want to annoy any

sick man with unnecessary letters. It will only take 5 minutes of your time and the expense of a 2¢ stamp, and I think this would be the least you could do—to advise me one way or the other. Remember, I don't want your case after you become incurable and I don't want your case unless you are sincere and will follow my instructions and advice. I am a very busy man and haven't time to give away to curiosity seekers.

“If money is the cause of your delay, advise me so. I am willing to help every man all I can. I don't want to keep any man [100] from treating who lacks money. If I cure him he will recommend his friends to me and I will benefit in that way. I will reduce your first month's fee from \$22.50 to \$20.00 even if that will aid you any; then you need only pay \$10.00 a month after. Isn't this fair? For \$2.00 I will start you at once, and wouldn't it be a very pleasing thought before the New Year to know that you were started on the road to health. May I have you on my list of patients at once? I thank you for the courtesy of a reply, even if only half a dozen lines, so I can know what to do with the records of your case, and to obviate the necessity of writing the postmaster to learn if he is holding up your mail.

“Wishing you a pleasant holiday season, and a Happy New Year, I am,

Sincerely yours,

Dr. L. J. JORDAN.”

(Testimony of Edmond Honvery.)

On June 13, 1913, the last letter received:

“I am very much interested in your cure, and I cannot understand how it is that you are content to allow your case to run on as it has and sacrifice your health for life in this way. The principal object in life today is to become well and strong, able to cope with all situations you meet,” and so forth.

(Letter offered in evidence and the file marked “United States Exhibit No. 7.”)

Cross-examination.

I am not a chemist. Studied chemistry a little bit in school. My object in putting glucose in this sample was I tried to show a case with an indication of diabetes. I thought it would produce evidence of diabetes. The other symptoms are perfectly healthy. I put the ammonia in to imitate the smell. That is all. That did not indicate anything in the way of disease. I have not consulted any physician or chemist about what constituted healthy urine. I made the sample to resemble urine to see whether a proper examination was made of it. It looked like urine and smelled like urine—it did, but it does not now. I have not looked at the [101] bottle for some time and I do not know how it smells. There is no formula in my office of instructions as to what chemicals are put in water for the purpose of producing this effect. It is all left to our discretion. What induced me to use these particular ingredients in this water was: My purpose was not to deceive the doctor, but to give him something that looked like urine, and for him to make the proper tests, recog-

(Testimony of Edmond Honvery.)

nized, of urine. I do not know whether that was the proper amount of sugar that appears in urine in diabetes, but diabetes is a disease which is shown in the urine by excessive sugar. I know that. I tried to introduce that. I also put in ammonia for the purpose of giving some odor; also some tea to give the color. I thought I would produce a liquid that looked like urine and smelled like urine, and had a diabetes condition in it.

Testimony of H. C. Walker, for Plaintiff.

H. C. WALKER, called as a witness on behalf of the United States, after being duly sworn, testified as follows:

My name is H. C. Walker. I reside in San Jose, Santa Clara County, and have resided there for about nine years. I am fifty-two years of age. I have visited the place here in San Francisco known as the Jordan Museum. Prior to visiting that place, I had correspondence with the institution.

Mr. FAIRALL.—Is this for the purpose of showing a similar offense?

Mr. PRESTON.—Yes.

Mr. FAIRALL.—We object to it upon the ground that no offense has yet been shown against this defendant, and until that fact is established, similar offenses cannot be shown. We therefore object upon the ground that it is immaterial, irrelevant, and incompetent and is violating one of the fundamental rules of evidence and the rights of the defendant to introduce such evidence.

The COURT.—The objection will be overruled.

(Testimony of H. C. Walker.)

Mr. FAIRALL.—Exception. [102]

I could not tell just how many letters I wrote—about three, I guess, but I am not sure. The letter you show me here is a copy of the one that I wrote. I did not keep copies of the letters that I wrote to the institution. I received their replies to these letters.

I can identify replies that I received. The letters in this package dated July 6, 1912, July 18, 1912, August 29, 1912, September 6, 1912, October 1, 1912, October 24, 1912, November 17, 1912, December 17, 1912, February 10, 1913, March 27, 1913, April 9, 1913, May 7, 1913, June 11, 1913, July 17, 1913, August 15, 1913, September 17, 1913, October 10, 1913, and October 21, 1913, are ones I received from Dr. L. J. Jordan.

Q. How came you to give these to the postal inspectors, if you did?

Mr. FAIRALL.—I object to that as immaterial.

The COURT.—The objection is overruled.

Mr. FAIRALL.—Exception.

A. I was requested to. The cards you show me I received from the Dr. Jordan Company—Dr. L. J. Jordan. I visited the place about eight months after the first correspondence. I doctored with them by mail up to that time, for about eight months. Then I visited the place. I visited it at that time and did not visit it again until several months later. After that I visited it about seven or eight times—during the whole time—about. It was probably ten times. I commenced this treatment on the 6th of

(Testimony of H. C. Walker.)

September, 1912, and quit doctoring there before the holidays of this year, 1914.

Q. Prior to the time of your receiving any treatment or medicines, did you fill out or not a symptom blank? A. I did.

Mr. FAIRALL.—Is it understood that this is all under the same objection?

Mr. PRESTON.—Yes, it is.

The COURT.—The objection is overruled. [103]

Mr. FAIRALL.—Exception.

I have no copy of the symptom blank. I filled the symptom blank and I sent it back. I filled out the question blank. I told them I was troubled with a weak back, that was my main trouble, and then afterwards began to take medicine. I took it for about eight months before I visited them. At the expiration of eight months, I came down to visit them, and there was a doctor there examined me, and he told me that my case was more complicated than he thought before, and I would have to take a different treatment. My condition had not improved any during the eight months. I paid them about \$200 to \$280. I am not positive about the man who examined me when I went there. There was a man that looked very much like Dr. Freeman. I am not positive that it was Dr. Freeman. It was a man that looked very much like him. I only saw the man twice. He was a stout heavy-set man. That is about all I know. He did not tell me his name. I was examined in their inner office. When I went there I called for Dr. Jordan, and he said that the

(Testimony of H. C. Walker.)

doctor was not in, to wait a few minutes and he would be in; I waited a few minutes, and this gentleman came to the door and asked me into the room. That gentleman examined me. He told me I was troubled with prostate glands and sexual weakness. He said my case was stubborn and required more expensive medicines, and he wanted me to pay an extra \$100 for treatment. I did, but not at that time. I told him I did not have the money then, and he wanted me to pay a part down and pay installments. I did not do anything then. I went home. A few days later, he wrote me a letter regarding that I was leaving it alone too long, and not taking up the treatment, so I made up my mind that I would try it again, and I commenced treating and treated on for several months again. I went back again and was treated the next time by Dr. Rice. I did not see the man that had treated me before. I told the doorkeeper [104] that I wanted to see Dr. Jordan, and he told me the doctor would be in in a few minutes. He did not mention any name. I then went into the waiting room and waited for him. After I was there probably twenty minutes, there was a man came to the door from the opposite room and called me into the office and made an examination.

Q. Did anybody else in the institution—did you make any other inquiries about Dr. Jordan?

A. Not that I remember of.

Mr. FAIRALL.—That is objected to as immaterial.

(Testimony of H. C. Walker.)

The COURT.—Objection overruled.

Mr. FAIRALL.—Exception.

Mr. PRESTON.—We offer to read at least part of this correspondence.

Mr. FAIRALL.—We move to strike out all this testimony upon the ground that it does not show a circumstance, in this: that the evidence shows that this man took the treatment in person, and after a personal examination, and there is no similarity between the cases at all.

The COURT.—The motion will be denied.

Mr. FAIRALL.—Exception.

The first one of these letters is dated July 6, 1912, on the same letter-head as heretofore.

“Mr. H. C. Walker,
San Jose, Cal.

Dear Sir:

This is to acknowledge the receipt of your favor of recent date. I am mailing to you by this mail my book ‘The Philosophy of Marriage’ under separate cover,” etc.

The next one is dated July 18, 1912:

“Some time since on your request I mailed you a copy of my book the ‘Philosophy of Marriage’ which I trust you have received and read with care.

“I presume you are suffering with some ailment you do not understand and from which you desire relief. A knowledge of sexual hygiene, self and sex and their relation to life and health, [105] diseases of life-giving organs, vicious practices and their results and sequelae do not come intelligently

of themselves, nor correctly from ordinary everyday sources, nor by the advice of ignorant friends.

“False modesty no doubt prevents you consulting one who has given his entire professional life in guiding thousands along the road to health, happiness and success. I want your confidence, as others have given it during all of my professional career.

“I am sure you wish to make a name for yourself; you do not want to be a failure before your time. You wish vigor and stamina in order to overcome the difficulties you meet in the battle for existence. To do this you must not be handicapped by weak organs. You must be strong in the loins and gird them up, as directed in the Good Book. No chain is stronger than its weakest link. Ships in storms are at the mercy of the weakest bolt.

“Self-pity and the demon of discontent, the weight that holds thousands back, is caused by ill-health of one or more of the vital functions.

“No matter who you are, no matter how much money you have, no matter if you are able to pay cash, no matter if you must have terms, no matter what the conditions, you cannot afford to neglect yourself. Self-preservation is the first law of nature. This relates to your health, as well as fighting to defend your life, or the life and health of your offspring.

“Therefore return my blank with the questions all answered. Do not allow a secretive nature, engendered by this condition and a symptom of it, to delay and prevent your obtaining a complete cure.

“Do not allow money matters to interfere. I assure you that all charges will be reasonable and within your means. We have never worked a hardship on anyone. Answer immediately.

“Very truly yours,

“Dr. L. J. JORDAN.

“Dict. by T. B.” [106]

Another letter dated August 29, 1912.

“Mr. H. C. Walker,
San Jose, Calif.

Dear Sir:

This is in reply to yours of recent date. The chemical test papers and question blank were carefully and scientifically considered. From this data *is it* my judgment that you have an excess of amorphous urates and phosphates, indicating wasted energy anemia neuresthenia at the expense of some of the functions of the body. You require and demand treatment to place you on par with your fellow men.

“You will find the testicles are weak and flabby and are not manufacturing healthy spermatozoa. There is no evidence of Bright’s Disease or proof of Diabetes, although an over-worked kidney may lead to both. You will find mucuous strings flocculi or sediment in the urine indicating prostatic inflammation at the neck of the bladder, with the consequent loss of vitality and absence of complete sexual satisfaction absolutely required by all male animals of health.

“Your case is a complicated one requiring careful and scientific treatment on the part of any physi-

cian who takes upon himself the responsibility of treating you. If you give your case into my hands I must have honest co-operation on your part, following to the letter my instructions.

“I will take your case and furnish all medicines required in the course of treatment for \$50.00 cash, or, if you wish to pay on time \$20.00 down and \$10.00 monthly; time required, about three or four months. If you accept either of these propositions, which are very liberal, kindly remit the amount with which to start in, and continue to do so until cured. Sexual neuresthenia results from the violation of the laws of health so impairing the system that it ceases to perform its functions. [107]

“The victim is awakened by dreams, the result of this disturbance; this is continued, usually occurring at shorter intervals, often accompanied by erotic dreams, until the organ becomes incapable of performing its function, producing a long line of reflex irritations and complications.

You cannot afford to lose your stamina or to be a failure in life. Low spirits never bother the healthy. No one can be happy or successful unless well. There is latent power in every one—all it wants is to be awakened and cared for.

“Expecting an early reply, I am,

“Yours very truly,

“Dr. L. J. JORDAN.

“Dict. by F. L.

“P. S.—The urine received and analyzed with above results. I thank you for your remittance of \$2.50.”

I had a contract with them for \$50.00.

Later dated September 6, 1912:

"I thank you for your remittance of \$20.00 which I have credited to your account, and am expressing you the first month's supply of medicines today, which I hope come safely to you.

"In order to obtain the best results in the least time, a few rules should be observed.

"Chew your food always thoroughly and slowly before swallowing to mix with the juices before going into the stomach, making digestion easier. Never eat much sweets, pies, cakes, etc. Plain food such as meat, potatoes, bread and butter, rice, macaroni, fruits and vegetables are the best. Do not drink tea or coffee. Good water and milk and buttermilk are the best drinks. Do not use alcoholic liquors in any form, and use tobacco sparingly.

"Never overeat. It is better to leave the table a little hungry. Never eat or drink much after 7 o'clock in the evening. Always sleep in a cool, well-ventilated room. Never sleep on your back. Always sleep on your side. [108]

"Practice deep breathing. That is draw the air into the lungs slowly through the nose until the lungs are filled to capacity, then breathe slowly out until lungs are empty. Repeat 10 or 15 times each morning. Get all the sleep you can.

"Keep your mind free from worry. Also do not let the thoughts dwell on lewd or impure thoughts or desires. This is bad on the sexual system and organs. Don't have intercourse more than once a

month for the first two or three months. It weakens your vitality very much, and you must be careful in all things, even regarding the pleasures.

“About 3 or 4 days before your medicines are gone, report your condition, symptoms, and effect of medicines, etc., and remit for the second month’s course.

“Hoping you will come along nicely, and with best wishes, I am,

“Very sincerely yours,

“Dr. L. J. JORDAN.”

“Dict. X.”

Letter dated October 1, 1912:

“I thank you for your remittance of \$10.00, which I have credited to your account—and I must say that your report is pleasing. You say you feel some better and stronger, but that is all the change you can see. Well, Mr. Walker, how much change would you really expect after one month’s treatment. I am sure you could not expect any greater noticeable effect. However, you will notice a greater improvement as you continue, as once a start is made—the rest comes easier. I am expressing you more medicines to-day which I hope comes to you safely, and trust the next month when you report you can say that there is still greater improvement.

Kindly follow out the instructions as closely as possible—as given in my former letter.

Very sincerely yours,

Dict. X.”

Dr. L. J. JORDAN. [109]

Letter dated October 24, 1912:

"I thank you for your remittance of \$10.00, which I have credited to your account and I am expressing you more medicines to-day which I hope reach you in due time. Come up and see me when you can get away. I am very glad to learn your report as it is most encouraging to me, and I am sure it must be to yourself also.

"Hoping next month will see still greater improvement, I am,

"Yours very sincerely,

Dr. L. J. JORDAN."

Letter dated November 17, 1912; letter of December 17, 1912; letter of February 10, 1913; and letter dated March 27, 1913;

"I am somewhat surprised at not hearing from you since your return home. I cannot understand why you did not write me as I had expected to start you on the course of treatment necessary after I had examined you. You must be without treatment of any kind, and I am sorry there has been any neglect that may cause a set-back—or allow complications to develop. Is money the cause of your delay. The agreement was that you were to send me \$40.00 upon your return home. I do not wish to cause money or the lack of it to prevent your having treatment. Send what you can, and I will be entirely willing to help you overcome the conditions detrimental to your health and physical condition. Kindly do not delay, as a great deal of danger is incurred in this manner.

“Awaiting your early reply and remittance, I am,

“Sincerely yours,

“Dr. L. J. JORDAN.”

Letter dated April 9, 1913;

“I thank you for your remittance of \$20.00, which I have credited to your account and am expressing you a package of treatment to-day which I hope comes to you in due time and in good condition. I wish to assure you that your case will have every attention, and nothing will be overlooked that will add to your quickly receiving desirable benefit. Take the treatment regularly, and you can remit [110] with your next report, or before that time if convenient to you.

“Very sincerely yours,

“Dict. X.”

Dr. L. J. JORDAN.

Letter dated May 7, 1913:

“I thank you for your remittance of \$20.00 which I have credited to your account—and I am sending you by express the next month’s course of treatment. I am a little disappointed at not having a few lines at least as to how you have been getting along and how you feel, and the effect of the last month’s treatment. Also if your bowels are working regularly, and whether your appetite and digestion are all right. Also if the urine is natural, or whether you notice a sediment. Is there any tenderness in the scrotum (testicles)? Please advise me fully as to these matters when you send in your next report for treatment. Hoping the package I am sending to-

day will come to you in good order, and trusting that you are doing very fine, I am,

Yours very sincerely,

Dr. L. J. JORDAN."

Letter dated June 11, 1913, and another one July 17, 1913;

"I thank you for your remittance of \$20.00, which I have credited to your account—and I am expressing a package of treatment to you to-day to relieve the pains you speak of. I have paid special attention to this matter and no doubt these pains in *grouns* and tenderness of testicles are caused by a stagnation of the blood in these parts. If the blood does not circulate freely, the parts become paralyzed and cause an irritation of the delicate linings or membrane which causes pain. Taking this into consideration, I made special pains to prescribe the treatment sent to-day to relieve this irritation and stagnation. I hope the package will come to you safely and it is my belief that great relief will be experienced the coming month. I enclose a test paper herein which treat and return with your next remittance and monthly report. Be very careful [111] when you report next month to advise exactly every condition and symptom of your case.

"With kind personal regards and best wishes, I remain,

"Very sincerely yours,

"Dr. L. J. JORDAN."

(Testimony of H. C. Walker.)

On August 15, 1913, September 17, 1913, October 10, 1913, and October 21, 1913:

“Are you coming up to San Francisco this week to see the Portola carnival and Land Show? Many of my out-of-town patients are coming up, especially Saturday to see the big electrical parade on Saturday night and thinking you would come up, I write to ask you to call if you do so. It is about 7 months since you were here and I would like to talk with you personally and examine you. If you cannot come up return the test papers I sent you with your remittance and report so you will not run out of treatment. Hoping to shake hands with you shortly, or hear from you, I am,

“Very sincerely yours,

“Dr. L. J. JORDAN.”

The last treatment I received at that place was just before the holidays. I was not treating with any other doctor in the meantime.

Cross-examination.

I sent real urine; obeyed instructions just as I got them. I took the medicine, having received a great deal of it. I followed the instructions of the doctor. I went one time to the office and had an examination. He did not give me much of an examination. He tested my urine and examined my lungs and back, the prostate glands. That was some examination. He examined my prostate gland with his finger. I do not know that he had a rubber covering on his finger. I do not know anything about that. He examined the prostate gland with his finger through the

(Testimony of H. C. Walker.)

rectum, and said that I had enlarged prostate glands. I do not think he [112] explained that might be the cause of sexual weakness. He did not explain why he examined me for that purpose. I met a doorkeeper there, as I have said. Mr. White was the doorkeeper. I saw Mr. Robinson there once. He was the doorkeeper. He looks a great deal like Dr. Freeman, about the same size as Dr. Freeman. That is the man that was at the door, I think. That was not the man that examined me.

I could not say that the doctor who examined me had a moustache or a plain face. He was a heavy, stout man. I do not pretend to say that it was Dr. Freeman that treated me. He was a stout man. I only saw him once. I do not know whether it was he or not. It looked very much like him. I do not remember about the moustache. He was a stout man, a stout heavy set man.

Mr. PRESTON.—Q. Would you mind standing up, Doctor? Does he still look like the man to you?

A. He looked very much like him.

Mr. FAIRALL.—Q. If you knew that Dr. Freeman had not treated anyone in there for ten years in any way, shape, or form, it would not change your opinion?

A. I do not know anything about that. The way I came to meet the officers of the Federal Government of the Postal Department: they wrote me a letter. I cannot recall the date, but it was a short time ago. I have not got that letter. In that letter they just asked me to send up these letters, but they did not say

(Testimony of H. C. Walker.)

they knew I had these letters. I do not know how they knew I had them.

Q. Did they tell you that at the Grand Jury investigation it had been disclosed that one Paul Oesting had testified that you had certain letters?

Mr. PRESTON.—Object to that as immaterial, irrelevant and incompetent.

The COURT.—The objection will be sustained.

Mr. FAIRALL.—Exception.

I wrote to the Dr. Jordan Museum. Regarding these letters, I [113] did not write to anybody. The postoffice inspector wrote to me. I did not come up and visit him, nor did he come to visit me. I just sent him the letters. This is all the correspondence I ever had. I do not know the postoffice inspector's name, do not recall it now. I do not know Paul Oesting. I do not remember ever seeing that gentleman before (referring to Mr. Oesting), until I saw him in the courtroom yesterday.

Mr. PRESTON.—Q. Was he the man who examined you? A. No.

Mr. FAIRALL.—Q. When did you say you commenced treatment with the Jordan Museum?

A. I think it was on September 6th, 1912, I quit just before the holidays this last year, 1914.

Mr. FAIRALL.—We wish now to renew our motion to strike out this testimony on the ground that it shows an entirely different state of facts. It is not within the time alleged in the indictment, and it is based upon treatments, personal interview and per-

(Testimony of H. C. Walker.)

sonal examination of the urine, and personal examination of the patient in the office, and it would not show a similar act, because it is not similar; it has nothing to do with the same conditions; this treatment, so far as it appears here, in actual, absolute good faith; there is nothing here to brand these statements as false or fraudulent, or made for the purpose of defrauding. Apparently on its face and so far as appears from the testimony, the statements were made in absolutely good faith for the treatment of the patient.

The COURT.—The motion will be denied.

Mr. FAIRALL.—Exception.

Mr. PRESTON.—May we offer these in evidence? Several of them are exact duplicates of the others.

Mr. FAIRALL.—We make our motion to strike out on the same grounds as our objection to the testimony.

The COURT.—Overruled.

Mr. FAIRALL.—Exception. [114]

(The documents were marked “United States Exhibit No. 8.”)

Mr. FAIRALL.—Q. You were in fact suffering from the trouble which was mentioned in this complaint to the doctor, were you not?

A. Yes. But I do not know that I was suffering exactly for what they were treating me. I was suffering from a weak back, and they claimed sexual weakness also. I did not claim so. It is not a fact that I have suffered from sexual weakness but very little. I may have suffered sometime.

(Testimony of Edward Boerner.)

Testimony of Edward Boerner, for Plaintiff.

EDWARD BOERNER, called as a witness on behalf of the United States, after being duly sworn, testified as follows :

My name is Edward Boerner ; my business is stenographer and employed at the present time with the Pacific Gas & Electric Company. It will be three years in September since I have been with them. Prior to that time I was employed by the Jordan Museum from May 5th or 6th, 1909, until the latter part of October, 1910, covering a period of about seventeen or eighteen months. My duties were stenographer and cashier and my office was located in the Jordan establishment.

Generally the location of the various rooms and offices at that time may be described : You came in a little bit of a hallway and then you turned to your left and you came into the reception room where the patients were, where they waited their turn, and then another office, and you came into my office—that is the executive office where people met, and that is where I worked. First there was what is known as the case taking room where they had the case taken, another room, a reception room for patients, and another room known as treatment and drug room, and operating room, together with the museum of anatomy. I know Dr. Freeman here and have known him ever since I began work there until now.

Q. Did he or not have an office there ? [115]

Mr. FAIRALL.—We object to that upon the ground it is immaterial, irrelevant and incompetent,

(Testimony of Edward Boerner.)

it is not within the issues of this case; his service therein was prior to 1910, and the charge embraced within this Indictment would not be within the statute of limitations, being more than three years prior to the first offense charged.

The COURT.—The objection will be overruled.

Mr. FAIRALL.—Exception.

A. He used to call there almost every night when I worked there, when he was in this city. Sometimes he was out of the city, and then of course he could not call. My duties there were as stenographer and cashier. I took care of the money, opened up the mail, wrote all the letters and kept the books.

Q. To whom was the mail usually addressed?

A. To Dr. L. J. Jordan.

Mr. FAIRALL.—We object to that on the ground it is immaterial, irrelevant and incompetent.

The COURT.—The objection is overruled.

Mr. FAIRALL.—Exception.

The mail in the first place, was addressed to Dr. L. J. Jordan, but whenever there was any money sent and the man did not like to go to the postoffice and bank and have it made out in the name of the doctor, on account of embarrassment, he addressed it to a private name.

Mr. FAIRALL.—We move to strike that out as irrelevant and hearsay, a volunteer declaration on the part of the witness, and a conclusion.

Mr. PRESTON.—Q. In what name was the mail received?

A. Dr. L. J. Jordan and Paul Allen.

(Testimony of Edward Boerner.)

Q. Who was Dr. L. J. Jordan; that is, while you were there, if anyone? [116]

Mr. FAIRALL.—We object to that upon the same ground.

The COURT.—Objection overruled.

Mr. FAIRALL.—Exception.

A. I don't know who he was. I got my instructions from Paul Oesting as to carrying on the business. The board of directors of the company met once, to my knowledge, while I was there. The directors were G. M. Freeman and his wife, Paul Oesting and Fred T. Baker. G. M. Freeman and his wife, Paul Oesting, and F. T. Baker were present at the meeting of the board of directors. I do not remember who the secretary of the meeting was. There were minute books kept there.

Q. Were there any minute books kept there?

A. Yes.

Mr. FAIRALL.—I object to that upon the ground that it is immaterial, irrelevant and incompetent. We are not trying the corporation.

The COURT.—The objection is overruled.

Mr. FAIRALL.—Exception.

Mr. PRESTON.—Q. Who kept them?

Mr. FAIRALL.—The same objection.

The COURT.—The same ruling.

Mr. FAIRALL.—Exception.

A. I don't know. I really never saw them much myself. I only knew there were minute books there. A cash-book and two books, one being the cash-book, and one being the treatment book, were kept by the

(Testimony of Edward Boerner.)

institution. I could not say positively whether Dr. Freeman ever examined the books, although I have a slight recollection that he did. When he would visit the place, he would come around, in the evening he *would there* and sit down, and sometimes he would be in the patients' room, and sometimes in the office in which I was located. Sometimes he would stay there an hour and a half or probably two hours, and then maybe he would not stay long at all. [117] I know the license was paid by this concern for carrying on this business. The license was issued in the name of G. M. Freeman. I do not think I got any particular paper at the time the money was paid for a license. I just took the license quarterly, every three months, up to some policeman on Eddy street, had the party up there O. K. it, and then took it up to the license clerk on McAllister Street and paid \$25, and he stamped "Paid" on it. That is all we had. I made out the checks for the expenses that were had in conducting the business, and Paul Oesting signed them. Dr. Freeman had authority to sign them if he was there, but I don't remember of his ever signing any. I remember of him signing one check in particular. It was made out in the name of a man called Mongetti. It was for \$150. It was a refund from a guaranty given him in case they did not cure him they would refund his \$150 of the \$250 paid. He was a patient. I remember that Dr. Freeman drew a check for that. I was the stenographer there and we had stereotype letters at that time.

Q. I will ask you how they were arranged?

(Testimony of Edward Boerner.)

A. That all depended a good deal on the patient's writing, upon what he wanted. If he wanted the "Philosophy of Marriage," he got the book "Philosophy of Marriage." with the first letter known as "1A," which covered a question blank and litmus papers, a stereotyped letter known as "1A." It depended upon whether he wrote for anything more. If he did not, then he got what was known as the "TB" letter. That "T" really represented 2, I do not know what the B represented. If he did not answer that letter he got a "3B."

Mr. FAIRALL.—We move to strike this out on the ground it simply shows the custom that existed in 1910.

The COURT.—The motion is denied.

Mr. FAIRALL.—Exception.

If he did not answer that letter, he got a "4B." That was all [118] the B's we had. After he got the fourth B, his name then went in the dead pile. What I did about him then depended a good deal upon the man; if he wrote back and rehabilitated himself, we wrote him another letter, and then if he did not come through, he got what was known as first neglect. That was marked "FN." After that if he did not write, he got the 2d neglect. Three neglects in all. After he had neglected three times, it depended upon the man again, if he wrote again; then he got more, but usually by that time he quit. If he failed to respond, we did not get him at all. I was in the courtroom yesterday and heard these letters read. In the file of letters known as Government's Exhibit "B,"

(Testimony of Edward Boerner.)

I recognize some of the letters issued by me in 1910. This is a second neglect, and here is a third neglect. That is marked. Here is another letter. This man has gone the limit; he got what is known as the cabinet letter. That differed from the others in this: After he had taken treatment and did not care to take any more, or quit in disgust, and they were trying to resuscitate him again, that was known as a cabinet letter. Here is a special cabinet. That is where they sent him these papers, a little different from that. There were stock letters that are not in this file. There are one or two missing, the "1A," the "2B" and "3B." The "TB" is missing out of that file. In "Government's Exhibit No. 4," the letter of June 17, 1912, is a "2B." Here is one that I never saw before, a form never used while I was there, a new one. Here is the "1A." That is in response to an inquiry for a book. "FL" is the one that I have never heard of. The next one is another new one. There were other stock letters that I do not find a copy of here, that were used at that time. This is an appliance letter, which is a letter selling appliances.

Q. Appliances for what?

A. Something known as a magnetic garment.
[119]

Mr. FAIRALL.—We object to that as immaterial, irrelevant and incompetent, and as no part of this case.

The COURT.—The objection is overruled.

Mr. FAIRALL.—Exception.

We kept these things in stock.

(Testimony of Edward Boerner.)

Q. How much did they cost you?

Mr. FAIRALL.—We object to that on the same grounds.

The COURT.—The objection is overruled.

Mr. FAIRALL.—Exception.

A. \$3.50 apiece. These were not graded at all. They were known as 1, 2, and 3. The selling price was generally anything that they could get, but in the main it was \$29—twenty something. I don't remember exactly. And the other was \$18. They were the same article.

Q. In trying to sell these appliances, can you give us any of the contents of the stock letter that you had in connection with that?

A. I can. I remember that one particular letter—I remember that one above any of the rest of them.

Q. Tell us from memory what the contents of that letter were.

Mr. FAIRALL.—The same objection.

The COURT.—Overruled.

Mr. FAIRALL.—Exception.

A. It was quite a long one, and I cannot remember it all. I can remember part of it, but I do not know as I could give the exact words. I have no copy of that. I did not take any with me.

Q. Tell us what you can remember of it?

Mr. FAIRALL.—We object upon the further ground that there is no proof that the letter cannot be supplied.

The COURT.—The objection may be overruled.

Mr FAIRALL.—Exception.

(Testimony of Edward Boerner.)

Mr. PRESTON.—Q. Tell us the contents of the letter as well as [120] you remember it.

A. The letter was in response to test papers sent out, after the party had taken treatment already, and they wanted to make another examination of his urine, and they sent him test papers, and when he sent them back, they acknowledged it saying, “Yours of recent date enclosing chemical test papers at hand, which have been submitted to a rigorous chemical and microscopical analysis, and while I find that there has been a great improvement going on, yet there exists to my surprise a slight paralysis of the muscles governing the seminal tracts. This symptom while not serious has a tendency to completely retard that which is most sought after; a development of the muscles would produce a healthy condition of semen and cause the parts to become large and vigorous, grow larger and stronger, and therefore more able to produce the function for which they are intended. As a matter of fact, I find quite a lot of dead spermatozoa in your urine, indicating the fact that the organs are not manufacturing healthy semen or allowing *it come* in direct contact with the surface through which the urine passes.” That is about all that I remember of it. That letter contained the price list of the same article mentioned at three prices.

Q. Who drew the dividend checks or profit checks?

A. Well, they were divided in three, and Dr. Freeman and his wife and Paul Oesting, that is known as B. Bechtold. It was written out to him. I do not mean that Oesting was known as B. Becktold. There

(Testimony of Edward Boerner.)

was someone else—the check was endorsed, was made out to B. Bechtold—that is how I made the check out. When it came back it would have the endorsement of Bechtold and below it would have all the endorsements. The checks that were issued to Dr. Freeman came back with his signature on. I would know the signature of Dr. Freeman if I should see it. The signature on the two checks that you show me is his signature all right, but it is not exactly [121] the way it used to be; it is a little more nervous hand, not quite as good as it used to be. This word “L. J. Jordan” there looks like his signature.

Q. About what proportion of the profits of the business did Dr. Freeman receive while you were there?

Mr. FAIRALL.—We object to that upon the ground it is immaterial, irrelevant and incompetent.

The COURT.—The objection will be overruled.

Mr. FAIRALL.—Exception.

A. One half.

Mr. PRESTON.—Q. About what were the monthly profits?

Mr. FAIRALL.—That is immaterial. We object to that upon the same grounds.

The COURT.—The objection is overruled.

Mr. FAIRALL.—Exception.

A. In the winter it was better than in the summer; in the winter sometimes the profits would be \$2,000 and over, and in the summer months it would be less. That is \$2,000 a month, the dividend. That is what they would divide on the first of the month. Dr.

(Testimony of Edward Boerner.)

Freeman was usually present at that time. I would give him the checks right in my office.

During the time I was there there were two physicians employed. They had quite a few while I was there; they only had two at one time, but changed quite often. The first two that were there were Drs. Morrell and Chisholm.

Q. What were the circumstances surrounding this \$150 check that Dr. Freeman drew in favor of an Italian?

A. This man came in and I think Dr. Freeman—

Mr. FAIRALL.—We object to that upon the ground it is not within the issues of this case.

The COURT.—The objection is overruled. [122]

A. He came in there, and they charged him \$200; that was the price of his fee. He was somewhat suspicious, and he thought he had better have a guaranty, and they gave him a guaranty in the event that they did not cure him, they would refund \$150 of the \$200 paid, and in a matter of two or three weeks, possibly a month, he came back and wanted his money back, and they would not give it to him for some long time, and he called almost a couple of times a week, and then Dr. Freeman decided that he would give it back to him, so he wrote a check for \$150 and I gave it to him, and he kept that in his pocket about a week or ten days.

Q. What was the source of income from this office?

A. There were two sources of income.

Mr. FAIRALL.—I make the same objection.

The COURT.—The objection is overruled.

(Testimony of Edward Boerner.)

Mr. FAIRALL.—Exception.

A. One was an admission to the museum, which was 25 cents, and the other was the patients.

Q. About what proportion of the revenue was derived from each of these two sources?

Mr. FAIRALL.—The same objection.

The COURT.—The same ruling.

Mr. FAIRALL.—Exception.

A. To my knowledge, I think \$90 was the highest, or \$89, or around there, was the highest we took in in a month while I was there, at the museum. The other source of income was all put in one amount, and then the dividend was drawn on the first of the month. The local business was the greatest. These stock letters that I have testified to were kept in a cabinet right over the typewriter. They were concealed, in a way, but very easy of access. All you had to do was to lift up a cover, and they were in there. The cash book was generally kept in the safe, together with the minute [123] books and such things as that, in the office in which I was located. Dr. Freeman had access to those books if he wanted to look at them. I could not say for sure whether he did look at them; it has been some years since I have been there. It is hard to recollect, but he had access to them, and he came in my office quite often. Whether he looked at them I could not just exactly say. At the time he would come in there about 7 o'clock in the evening, he would talk about how the day was, the business of the day—I cannot remem-

(Testimony of Edward Boerner.)

ber exactly the conversation that took place. Dr. Freeman at that time did not maintain offices any other place to my knowledge.

It was generally supposed that Dr. Jordan was there, and patients would ask sometimes for Dr. Jordan; some would ask for Dr. Jordan and some would ask "Is the doctor in?" I did not give any answer. I was not at the door. I was at the back end. There were two different doorkeepers and the janitor. I remember their names, A. M. Robinson and W. H. White.

Q. Did you receive any instruction as to the manner in which you were to carry on your part of the work?

Mr. FAIRALL.—We object to that upon the ground it has not been shown there were any instructions.

The COURT.—The objection will be overruled.

Mr. FAIRALL.—Exception.

A. Yes. I received instructions from Paul Oesting, one of the owners of the business. He was half owner of the business. It did not appear in his name. Oesting is not a doctor or a physician at all. There was no other physician connected with the corporation as a member of the corporation. Dr. Freeman was the only one. I never had any conversations with Dr. Freeman about renewing this license you asked me about a little while ago.

Q. What instructions did Mr. Oesting give you about how you should [124] carry on your business?

(Testimony of Edward Boerner.)

Mr. FAIRALL.—That is immaterial.

The COURT.—The objection is overruled.

Mr. FAIRALL.—Exception.

A. He told me what my duties were, and the important things in the office. He told me the main thing was to always watch that the license did not run out, that is, I should always renew it in time, that is, pay it; take it up to the license clerk and pay it, so as not to run out; that was quarterly, every three months. Other instructions were to see that everything was going on right in the institution, watching the doctors, just to see that they did not commit any thing that would not be becoming in the place. He did not give me any instructions whether or not he wanted patients cured or not cured that came there—that would not be for me. He would not tell me that.

Q. Do you know whether or not he fired any of the doctors because they were attempting to cure the patients? A. Yes.

Q. How often did he do that?

A. I do not know whether it would be for that reason, or not, but the man was dealing more with curing them than with getting the money. He might not have been curing them, but they thought he was, or he was not getting the money—it was something like that. They were not fired—just let out in a way—you could not say exactly fired. They just said they had a new doctor there. There were three, to my knowledge, that severed their connection with the institution while I was there. I do not know

(Testimony of Edward Boerner.)

whether any of these doctors were licensed physicians. They got a salary of \$100 a month and a commission. I could not say exactly how much it was, but I think it was 10% after the expenses were paid, which was about \$1350 a month—10%—and then when it went over \$300, 12½% or something like that. I do not exactly remember. Anyhow the commission amounted sometimes to more than the salary. [125]

These letters were kept there in advance. They were stereotyped letters, and some of them had been there for six months. I bought them from W. R. Whyte in the Call Building. I do not remember the amounts purchased. It depended upon which one was used the most. All that was left to do was to write the address at the head of the letter. I used to sign the letters with the name of Dr. Jordan. Mr. Oesting generally told me what to put in the letters. He did not tell me very much, just to be careful about what to write, in a jocular sort of way, and keep out of trouble. Somebody would write in and ask for a book, and I would then write letter No. 1 and if I did not hear from them, I would send No. 2. I kept track of the correspondence. I had two groups, one was kept in an index and the other in what was known as a tickler; every ten days they would look him up if he did not answer. Then if he did not answer I would write No. 3 *and then* No. 3. And then he was filed out of the live index in the dead file. Then if he wrote again, I took him out of that and put him in the living correspond-

(Testimony of Edward Boerner.)

ence. It all depended on how many letters I wrote. When they were all together there were seven stock letters. That was the practice that was followed in each case. Generally most all of them came in the mail, got the same treatment. The **medicines** were mailed out. The same kind of medicines were sent out. Robinson and White sent the medicines. The doctors made them up and they mailed them—they wrapped them up and addressed.

I could not say how many classes of medicine they had. They might have analyzed some of the urine that was sent in, but I do not remember. I used to go in there and I used to see them with it in a little jar—I don't know what they were doing. It was generally not analyzed. As the samples came in they took them out in the other room, and I do not know what they did with them. I [126] do not know anything about the facilities they had there. I did not buy any microscopical instruments while I was there. There was that a doctor brought once. They did not fire him for bringing it. No question arose about buying them, to my knowledge.

Q. Now, these letters, they all say, "I have spent all my life in this practice." One of them says, "I have spent fifty years in this business," and one thing and another. What instructions did you get about that?

A. They did not give me any instructions.

Q. Do you know where the stock letters, as you call them originated from?

A. Indeed, I could not say.

(Testimony of Edward Boerner.)

Q. Is it a fact that they were there when you got there?

A. Some of them—the cabinet, the special cabinet and appliance, those three originated there, but the others were in stock. They were there when I went there. Oesting gave me the inside of this appliance letter. Another doctor, and several of them, got together on it. They were right in my room there with me; some of them would make suggestions, and then I would type them up and submit it for their approval, and they would make suggestions.

At the time this letter was formulated, there was no specific case under consideration. It was just for the purpose of getting up a special letter. When that letter was being whipped into form, there was a doctor there by the name of Chisholm—he offered some suggestions. He was one of the doctors, but I could not say exactly positively—it has been some time. I have been out of there five years, and I cannot just recall. I know that this appliance letter was manufactured there, and after it was manufactured I sent it out, only when they found a case that had already been through the regular course of treatment—he generally got that. There might have been fifty names we were corresponding with or there might only be half that number—there might be fifty and might be half that. I could not say. While I was there, I was not [127] called upon to prepare any report to the medical examiners *and* to whom the company was composed of, or anything of that sort. I have not conversed with

(Testimony of Edward Boerner.)

Dr. Freeman any, since I left there, to my knowledge. I might have met him several times. There is no feeling of antagonism existing between me and any of these parties. I severed my connection with them voluntarily.

Cross-examination.

Dr. Freeman was not present when that form letter was made. He never instructed me at all about these letters. I think he prescribed for the patients while I was there once, during the year I was there. He prescribed for someone who called at the office. It was not in regard to sending out letters by mail. He had nothing to do with that, so far as I know.

The check I saw him sign was in a settlement of a contract which they made with a patient who called at the office. It was not a mail order. Most of their business was done through calls at the office; quite a few of the cases went through the mail, a good many. The major portion of the business, that is, in money, came locally. Dr. Freeman had access to the books, and if he wanted to get into the safe, he could have had it opened without instructions from anyone else. He might have at one time carried a key to the safe. Paul Oesting was not a physician. He instructed me to see that the license was renewed. I found the license there in the name of Freeman, and I did not do anything except to go to the bond and warrant clerk's office and renew it. He would O. K. it and I would take it over on McAllister street. I would simply renew it as a

(Testimony of Edward Boerner.)

matter of form in the name of Dr. Freeman. When Dr. Freeman was out of the city, he would not be there for two or three weeks at a time, and there were times again when he was called quite often. I do not remember of his giving instructions to employes in the management of the business, or his taking any part in things of [128] that kind. This one patient I think he treated. I know he was speaking to him, consulting with him in the room. He did not have an office of his own there. He had a place where he generally used to sit, but no regular hours there. Paul Oesting appeared to be the one from whom we took our instructions. We would go to him if we wanted any instructions. I do not remember that Dr. Freeman ever instructed me to send out letters.

I guess Dr. Freeman knew the stock letters were in existence. I am not exactly guessing at it. I know I would if I was in a place like that. The letters were right where he had access to them if he wanted to do it.

Q. I will ask you if you ever had a conversation with Dr. Freeman about treating a patient in which he made a remark as to whether he was *bona fide* treating him?

A. I could not say exactly whether he treated him, but he discussed at one time a certain official who they got quite an amount of money from, and also a unique way of having it brought down to them.

Q. How was the money brought down?

(Testimony of Edward Boerner.)

A. By a messenger.

Q. How much was it?

A. I don't know how much.

Mr. FAIRALL.—I object to that.

A. (Continuing.) It was \$250 that they got, all told, but I don't think they got it all in that amount. Anyhow, it was toward the latter part of the month, and they told him if they got it before the close of the month, they would discount it.

Mr. FAIRALL.—That is only hearsay, and I move to strike it out.

The COURT.—Let it go out.

Mr. PRESTON.—Q I thought you had discussed it.

A. We discussed this part, how they got the money down there, Dr. Freeman discussed it, and he just said how anxious he was to bring the money down before the month closed, in order to save himself [129] the discount. Dr. Freeman said his troubles were imaginary. That is a prominent official here now.

Mr. FAIRALL.—I move to strike that out on the ground it is not shown to have any connection with this indictment, the use of the mails for fraudulent purposes, and conceding it to be fraudulent no time is fixed in which the event took place; that is evidently a little mere reminiscence that occurred in the office about patients in his recollection.

The COURT.—Motion denied.

Mr. FAIRALL.—Exception.

(Testimony of Edward Boerner.)

Mr. FAIRALL.—Q. This related to a time ten years previous, did it not?

A. It was prior to my advent. It will be five years next October that I left the place. He did not say money, he might have said it, but I don't remember. It was just in a casual way that he happened to mention it. It was not a matter of any instructions as to how to do business, or in regard to the conduct of the business. There might have been something that brought it about. I do not remember about ever getting any instructions from Dr. Freeman at all as to taking advantage of anyone or defrauding anyone or doing anything wrong. That conversation I had with Dr. Freeman was in 1910.

Testimony of A. J. Gock, for Plaintiff.

A. J. GOCK, called as a witness on behalf of the United States after being duly sworn, testified as follows:

My name is A. J. Gock; I am assistant cashier of the Bank of Italy, Market Street Branch. I have been employed there for four years. During the years 1912 and 1913 I was paying teller. In that capacity I had to pass upon the signatures of the L. J. Jordan Company, of Dr. L. J. Jordan. I have a card from our files showing the signature of L. J. Jordan or Dr. L. J. Jordan. I have that signature card here. [130] This is the card of Dr. L. J. Jordan from our files, the original card. There are two signatures there of L. J. Jordan. The first one is by Paul Oesting and the second signature is by

(Testimony of A. J. Gock.)

G. M. Freeman. Each is written "L. J. Jordan."
I recognize both of those signatures.

(Signature card admitted in evidence and marked
"United States Exhibit No. 9.")

On the check of the Bank of Italy, dated January 2, 1915, payable to the order of G. M. Freeman and signed Dr. L. J. Jordan, I identify the signature of G. M. Freeman. That was written by G. M. Freeman.

On the check January 2d, 1915, "Pay to the order of A. V. Freeman" and endorsed "Dr. L. J. Jordan," I identify the signature of G. M. Freeman.

Mr. HETTMAN.—We offer these as "Government's Exhibit 10."

Mr. FAIRALL.—We object to their introduction.

The COURT.—The objection will be overruled.

(The checks marked "United States Exhibit No. 10.")

Testimony of James T. Burns, for Plaintiff.

JAMES T. BURNS, called as a witness on behalf of the United States, after being duly sworn, testified as follows:

My name is James T. Burns. I am connected with the San Francisco "Bulletin" at the present time. During the years 1912 and 1913 I was employed by the Dr. L. J. Jordan Company in the capacity of stenographer and clerk. I think it was from the 22d of May, 1911, up until the place closed. I was present in court this morning and heard the testimony of Mr. Boerner. My position was virtually the same as that of Mr. Boerner. I practically carried on all

(Testimony of James T. Burns.)

of the correspondence in the place. The correspondence was in the form of letters when I went there first; the doctor in charge instructed me how to send out the letters. If an inquiry came for treatment, I simply took the form and filled out this form and gave instructions [131] according to one of these forms. In some instances the letters were dictated. If they were not covered in the form the doctor would dictate the letter or make the notations on the margin of the patient's letter. By "the doctor" I mean the doctor in charge. My duty was to look after all the mail. I also had charge of the books, the day-book and cash-book. That is all. Entries were made from the day-book into the cash-book every morning. The day-book was merely a record of whatever money came into the office during the day. It was generally kept on the desk in the office where I was located for the first two or three months; after that it was locked up in the safe. The book was accessible to any of the members of the company, all of the doctors. If anyone came into the room who had authority to be there, he could easily look through this book to see what the day's receipts were. Dr. Freeman came into the office I was located in, and the books were accessible to him. He very rarely, to my knowledge, if at all, looked over these books at any time. He would come to the office during the day, generally in the forenoon, while I was there, anywhere from fifteen minutes to two hours. He would not stay with me very long; he would generally talk with some of the doctors. These letters that

(Testimony of James T. Burns.)

were sent out were all accessible to him, the form letters. Those form letters were there when I went there, and I don't know how long previous they had been, but I understood for some time. I did not make any changes in those letters from time to time, nor add any form letter to the file. I generally prepared the checks for signing there in the office. Our checks were generally signed the 28th of the month for the general business, and after the 1st of the month for dividends. Dr. Freeman signed checks. He might have signed three or four checks for payment of rent at the end of the month. He always signed the dividend checks himself, I believe. They were always left unsigned—I made them out and they were left [132] unsigned. "Government's Exhibit No. 10," a check made payable to G. M. Freeman, dated January 2, 1915, for the amount of \$99.80, I am pretty sure was a dividend check for the month of December, 1914. That was signed by Dr. Freeman, and the other one also. The other one was a dividend check to his wife. Dr. Freeman always signed his own dividend check to my knowledge. He was not always there at the time to receive his dividends. Sometimes he would not come in until a week or ten days after the first of the month.

The doctors, as a rule, got these letters first. They came from the doctors to me, and the doctors would make notations on the margin of the letter, or a slip of paper is attached and it would come from the doctors to me. Then I would write on the form indicated, to the patient. I was employed on a salary

(Testimony of James T. Burns.)

and had no interest in the company. I was also receiving a commission. My salary was \$85 a month when the place closed, and I got a commission of one-half of 1%. During the time I was there, the commission would average over \$10. I identify the book you now show me as the cash-book which I spoke about a few minutes ago; that was kept by me over the period of December 1st, 1913, to January 8, 1913. On the left-hand side of that book would be office receipts, and the right-hand column was the museum receipts. These receipts were receipts from patients who came into the office and also represents checks that came in through letters. It covered everything, the total receipts, through the treating of patients.

At the top of the right-hand page is the notation: "Dividend account 55, P. Oesting, .01, E. P. Baker, .01, B. Bechtold, 998.98, G. M. Freeman, 998, A. V. Freeman, 2." That represents the dividend of the previous month. That would be December, 1913. I entered the dividends at the first of the month, in the book every month, during the entire book, in the same way exactly as it is here.

Mr. HETTMAN.—I wish to offer this as "Government's Exhibit 11." [133]

Mr. FAIRALL.—We object to the introduction of that testimony against the defendant, for the reason it was not written by him, does not purport to *the* made under his instructions, no testimony that he gave any instructions as to the making of it, or was responsible in any way for its being kept.

The COURT.—The objection will be overruled.

(Testimony of James T. Burns.)

Mr. FAIRALL.—Exception.

Mr. HETTMAN.—Q. Will you read from this book that you kept the amount of dividends that you paid for the following months to G. M. Freeman?

Mr. FAIRALL.—We object to that on the same grounds as the other.

The COURT.—The objection will be overruled.

Mr. FAIRALL.—Exception.

A. There was no dividend the following month, January 1, 1914. I could not tell you that there was a loss from this book. If there was a deficiency it is not shown here. The disbursements are shown to be \$1095.75. There was a loss. That was January, 1914. It was for the month of December, 1913.

Q. This shows he was paid a certain pro rata dividend every month, was he not?

A. Yes, if there was a dividend. He was paid 50% between him and his wife. P. Oesting was paid 1%. Every month 49% was paid to B. Bechtold; E. P. Baker about 1%, and between Dr. Freeman and Mrs. Freeman it covered 50%.

The writing on the brown paper you show is mine. I severed my connections with the concern when it closed. We had a minute-book there. I do not know where it is now, but there was a record kept every month of the dividends and placed in this book, a minute-book. What purports to be an organization meeting is the one I refer to. I think that is the only book that was kept in any way regarding the minutes. The handwriting that is signed on the [134] various pages there is G. M. Freeman,

(Testimony of James T. Burns.)

the defendant's. That was signed in my presence.

Mr. PRESTON.—I want to introduce this in evidence and have the jury read a few samples of the minutes, or hear it read, to see the nature and kind of minutes that was kept by the corporation. It is properly identified, and I think it is admissible.

Mr. FAIRALL.—I object to it upon the ground that this book was in the possession of the defendant in this case, has been taken from his presence without any authority by the Government, and against the will and against the consent of the defendant, and is now in violation of the Constitution of the United States, and is being used as evidence against him, which is therefore inadmissible.

The COURT.—The objection will be overruled.

Mr. FAIRALL.—Exception.

Mr. PRESTON.—Without reading all this book, I will state that the organization meeting was held on the 12th of June, 1908, at 2 o'clock P. M. at Room 603, No. 110 Sutter Street, in this city and county, and these persons were present: George L. Simmons, Robert Stevenson and W. J. Young, when the organization took place. The next meeting of the board of directors was on the 29th of June, 1908; the directors' meeting on the 2d of July, 1908. At that time it first appears that Paul Oesting is President and G. M. Freeman Secretary, they signing the minutes.

This shows that Mr. W. J. Young announced that he had transferred and sold some of his stock in this corporation to Mr. E. P. Baker, that he was no longer a stockholder of the corporation, and tendered his

(Testimony of James T. Burns.)

resignation as president of the corporation and as a member of the board of directors. On motion duly seconded and carried, the resignation of Mr. W. J. Young as president of the corporation and as a member of the board of directors was accepted; and thereupon, on motion duly seconded and carried, Mr. E. P. Baker was duly elected a director of the corporation, vice W. J. [135] Young resigned. Mr. Baker was thereupon called to the chair and announced that the office of president being vacant, nominations were in order for the office of president of the corporation. Mr. Paul Oesting was placed in nomination for the office of president. There being no other nominations, the same were declared closed, and on motion duly seconded and carried, the secretary was directed to cast the ballot for Mr. Paul Oesting as president of the corporation, and thereupon the secretary cast the ballot and Mr. Paul Oesting was duly declared unanimously elected president of the corporation and took his seat as such president of the corporation and of the board of directors. Thereupon Mr. Simmons announced that he had sold and transferred all of his stock in this corporation to Dr. G. M. Freeman, and tendered his resignation as secretary of the corporation and as a member of the board of directors, and on motion duly seconded and carried the said resignation of George L. Simmons was accepted and Mr. Simmons withdrew from the meeting. On motion duly seconded and carried Dr. G. M. Freeman was unanimously declared elected a director of the corporation vice George L. Simmons resigned. The

(Testimony of James T. Burns.)

chair then announced that a vacancy existed in the office of secretary owing to the resignation of Mr. Simmons and declared nominations in order for the position of secretary. Thereupon Dr. G. M. Freeman was placed in nomination for the office of secretary. There being no other nominations, the same were declared closed, and on motion duly seconded and carried the temporary secretary was directed to cast the ballot for Dr. G. M. Freeman as secretary of the corporation and thereupon the ballot was so cast and Dr. G. M. Freeman was unanimously elected secretary of the corporation, and he thereupon took his seat as such secretary.

The secretary then announced that the certificate increasing the number of directors of this corporation from 3 to 4 had been filed in the office of the Secretary of State of the State of [136] California, and that it was necessary that a meeting of the stockholders of this corporation be immediately called for the purpose of electing an additional director and the adoption of a code of by-laws. On motion duly seconded and carried it was unanimously

“Resolved that a meeting of the stockholders of this company be and hereby is called, to be held this 2d day of July, 1908, at the hour of 2:30 P. M., at room 603, French Bank Building, 110 Sutter Street, in the City and County of San Francisco, State of California. On motion, duly seconded and carried, the meeting adjourned. Paul Oesting, President, G. M. Freeman, Secretary.”

A stockholders' meeting was then called and Paul

(Testimony of James T. Burns.)

Oesting represented 49,999 shares. Dr. G. N. Freeman, 49,900 shares; E. P. Baker, one share. Addie V. Freeman, 100 shares. Then here follow the minutes of that meeting signed by Paul Oesting, President, and G. M. Freeman, Secretary.

Then there is a directors' meeting as follows:

"We, the undersigned members of the board of directors of 'Dr. L. J. Jordan,' do hereby consent to the holding of a meeting of the board of directors of the said company at 3:30 P. M., this 2d day of July, 1908, at room 603 French Bank Building, 110 Sutter Street, San Francisco, California. Paul Oesting, G. M. Freeman, Addie V. Freeman and Edward P. Baker." The minutes of that meeting were also signed by the defendant and the president.

The next meeting was called on May 4th, 1909.

"Special meeting was called for the purpose of declaring dividend on the capital stock of the corporation, and upon motion of Paul Oesting, seconded by G. M. Freeman, a dividend of one-half of one per cent on the capital stock of the L. J. Jordan & Company was declared payable this day, namely May 4th, 1909. No further business appearing, meeting adjourned. G. M. Freeman, Secretary."

That was a meeting of the directors.

The next one is an annual meeting of stockholders, on June 1, [137] 1909: "Upon the roll being called a quorum was found to be present, the shares of the L. J. Jordan Co. being represented as follows: G. M. Freeman, 49,900 shares; Addie V. Freeman, 100 shares; E. P. Baker, one share; B. Bechtold (by

(Testimony of James T. Burns.)
proxy), 49,9998 shares; Paul Oesting, one share.”

“The minutes of the last meeting were read, and upon motion ordered approved as read.”

“A report showing the present status of the business was presented and upon motion of G. M. Freeman, seconded by Paul Oesting, it was ordered received and filed.”

“The following named stockholders have been placed in nomination for directors were upon ballot elected to serve for the year ending May 31, 1910, and until their successors shall be elected: Paul Oesting, G. M. Freeman, Addie V. Freeman, Edward P. Baker. No further business presenting, meeting adjourned. G. M. Freeman, Secretary.”

The next meeting of directors was at the office of L. J. Jordan, 986 Market Street, San Francisco, June 1st, 1909.

“Upon ballot after nomination by G. M. Freeman, seconded by Addie V. Freeman, officers were elected to serve for the year ending May 31st, 1910, as follows, viz: Paul Oesting, President; G. M. Freeman, Secretary.

The minutes of the last meeting were read and upon motion were ordered approved as read.

Upon motion of G. M. Freeman, seconded by Edward P. Baker, a dividend of one-half of one per cent of the capital stock of L. J. Jordan was declared payable this day, namely, June 1st, 1909. No further business presenting, meeting adjourned. G. M. Freeman, Secretary.”

The next meeting was on July 1st, 1909, one month

(Testimony of James T. Burns.)

later: [138] "Special meeting was called for the purpose of declaring dividend on the capital stock of the corporation and upon motion of Paul Oesting, seconded by G. M. Freeman, a dividend of 7/10ths of one per cent of the capital stock of the L. J. Jordan & Company was declared payable this year, namely, July 1st, 1909. No further business appearing, meeting adjourned. G. M. Freeman, Secretary."

The same kind of meeting, for the same purpose, declaring a dividend of 11/10ths per cent on the capital stock of the L. J. Jordan & Company was declared this day, namely, August 2d, 1909. A similar one on September 1, 1909, of 1½%; on October 1, 1909, 1%; November 1, 1909, 1.3%; December 1, 1909, 11/10ths of a per cent. Each meeting was signed by G. M. Freeman as secretary. On January 1st, 1910, there was a dividend of 9/10th%. On February 1, 1910, there was a dividend of 1.4 per cent. March 1, 1910, 1.7 per cent; April 1, 1910, 1.7%; May 1, 1910, 1.3%; June 1, 1910, 1-10%. Then here follows another annual meeting on June 7, 1910, electing the same directors with the same number of shares. A meeting of the board of directors was held on July 1st, 1910, and declared a dividend of 1/10th%. August 1, 1910, a dividend of 2%; September 1, 1½%. October 1, 1910, a dividend of 2/10th%. A dividend of 1.7 per cent November 1, 1910. December 1, 1910, a dividend of 1.6%. January 1, 1911, dividend of 1.2%. A special meeting on February 1, 1911, declared a dividend of 1.5%, and 1.3% next month. March 1st, and 1.3% the next month April, 1911.

(Testimony of James T. Burns.)

May 1st, 1911, 1.8%. June 1, 1911, another dividend. Another annual meeting June 6, 1911, the same stockholders being represented and the same officers elected July 7, 1911, 1.6%. August 1, 1911, 1.8%. September, another one. October, November, December, January, 1912, another. February, 1912, [139] March, 1912; April, 1912; May, 1912; June, 1912; another annual meeting in June, 1912, of the same parties, same directors and same officers elected; August, 1912; September, 1912; October 1912; November, 1912; December, 1912; January, 1913; February, 1913; March, 1913; April, 1913; May, 1913; June, 1913; another annual meeting on June 3, 1913, the same parties; July 1, 1913, another dividend; August, 1913, another; September, 1913, another.

Mr. FAIRALL.—We object to anything that occurred after the last letter set out in the indictment, namely, August, 1913.

The COURT.—The objection is overruled.

Mr. FAIRALL.—Exception.

Each of these minutes is signed in the handwriting of Mr. Freeman. There was no other record kept of the business transacted in the office, besides this cash-book to which I have testified. There was not much other than that. There was a record kept that went more into detail and showed how much came in the mail and one thing and another. It was kept in a plain yellow day-book. That was there when I left, in whose possession I do not know. It was kept in the safe, where all the books were kept. I believe

(Testimony of James T. Burns.)

when I left there it was out on the desk. The title of each book that was kept by the concern while I was there is as follows: Day-book, cash-book, minute-book, and physicians' day-book and physicians' record-book. I had the cash-book here a while ago. The day-book is not here. I have not seen that. That is about all the books that were kept—the day-book, cash-book, this minute-book, and the physicians' books. The entries that were made in the day-book consisted of the amounts paid by each patient for the day, with the name of the patient.

I could not tell you what became of the correspondence received from the patients. I think it was all burned, though, after the [140] place closed, January 8th of this year. I did not see it burned, so I do not know that it was burned, but it disappeared from the office, sometime in February I think, 1915. At the time I last saw it it was in nobody's possession in particular—there was nobody there. This correspondence was kept in the ordinary letter file. They were stored away, some in the back offices and some upstairs. I did not see the stuff moved out. I was back there after the correspondence was moved out, and the place where it had been knew it no more. All the record-books went with it. I believe everything that was there in the way of correspondence or papers went. I have seen certain letters called stock letters. They were gone the last time I was there. The defendant was there after this stuff disappeared, when I was up there, three or four times after the place was closed. It closed again on the 6th of January. Dr.

(Testimony of James T. Burns.)

Freeman, Mr. Oesting and myself and Dr. Rice, I believe, were there at the time it was closed. There was conversation there about closing the place. I do not remember particularly what Dr. Freeman said, if anything. He agreed to close it and go out with the rest. I do not remember that anything was said by Dr. Freeman or in his presence about destroying the correspondence. He did not happen to be there every time I was there after the place closed. I would just run in there as I happened to be going by. I heard things were burned. I did not hear it from the defendant.

Mr. FAIRALL.—I move that all that testimony about burning the records go out.

The COURT.—Let it go out.

I did not send any of these stock letters at the request of Dr. Freeman. I did send some of them away to different patients, different prospective patients. I know Dr. Freeman had access to [141] these stock letters.

Mr. PRESTON.—I would like to offer in evidence, without reading it, the by-laws, the book containing the by-laws, also signed by the defendant in this case as secretary.

(Book received in evidence and marked "United States Exhibit No. 13.")

Mr. PRESTON.—Q. I will ask you whether or not that is one of the records of the corporation?

A. Yes, that is the by-laws. But I never had anything to do with it. I have seen it. I signed some of the correspondence that went out during the time

(Testimony of James T. Burns.)

I was there. I signed the name Dr. L. J. Jordan. There was no Dr. L. J. Jordan connected with that institution while I was there. There was no one who posed, to my knowledge, as Dr. L. J. Jordan.

Q. Would the patients or persons communicating with or visiting this institution ever at any time call for Dr. L. J. Jordan?

A. In the letters they generally directed the letter to L. J. Jordan.

Mr. FAIRALL.—I object to that.

The COURT.—The objection is overruled.

Mr. FAIRALL.—Exception.

Mr. PRESTON.—Q. I am talking about personal visits.

A. I had nothing to do with that. I was stenographer. The letter dated May 27, 1912, "United States Exhibit No. 4," is what I call one of the stock letters kept at the time. That is the "1A" letter. When they sent for a book, they got the "1A" letter. If they did not answer they got the "2B." The handwriting at the bottom there might be Dr. Rice's, but I am not sure. I would not say positively, it may be mine. The only one I have any doubt about in this pile of correspondence is this one here. That may be mine or Dr. Rice's. I did sign the name of Dr. L. J. Jordan. The letter here that is signed "FL"—Dictated "FL," is a fee letter, [142] where a fee was made to a patient. "IB" is a 2B.

Q. Was it a part of the custom of the business to mail to any person from whom you had received in

(Testimony of James T. Burns.)

the mails a letter either some or all of these stock letters?

A. Yes. When I went there first that was the instruction. The special kind of disease that I communicated to them about through this stock letter system was sexual diseases. If a man had a cancer, he would be written a personal letter. Appliance letters were sent out while I was there. In the last stages of a case, they would offer to make a free examination of the urine—I believe that might have been done. The price for the examination of urine was generally \$2.50.

I never had anything to do with pointing out a Dr. Jordan to patients as they came in. I had something to do with purchasing the supplies, the different supplies used in the office like ink, papers, pencils, and so forth. I also purchased the stock letters and medicine.

Q. From whom did you buy your medicines, if you know?

Mr. FAIRALL.—I object to that as immaterial.

The COURT.—The objection will be overruled.

Mr. FAIRALL.—Exception.

A. Most of the medicines came from Langley, Michaels, Redington, or three or four drug houses. I do not know how many classes of medicines we were handling. We had a fairly good-sized drug store. We had in stock these appliances referred to. I do not know what they consist of. I never opened one of them; some metal inside of a cloth covering,

(Testimony of James T. Burns.)

in the form of a belt. I do not know that any of them were sent out broken.

Cross-examination.

To the best of my knowledge, they kept a general stock of drugs. I am not a druggist, but I think they did have quite a number of [143] different kinds of drugs. I would not say there were hundreds, but quite a number of them. We did not carry patent medicines. But without patent medicines, the same kind of drugs you find in an ordinary drug store. They could fill prescriptions there. I do not know whether they could fill the ordinary prescription of any doctor, or not. We ordered drugs from the different firms at the doctor's suggestion—doctor's orders. We ordered many kinds and had many kinds there. The bills for the drugs would vary. We paid our bills every month. I should say probably the drug bills were \$30 to \$40 a month. Some months they would go more than that. The highest in any one month I sent any firm was \$40, but there were probably three or four firms we were buying from. I could not say positively it was more than \$100 a month. There were many bottles and packages with drugs in. Medicines were sent out to patients. I do not know whether you term them drugs, or not. Whether they were drugs of any value or not, I don't know.

I was not instructed by Dr. Freeman about the writing of any of these letters, and he never gave me any instructions of any kind or nature. He was there frequently and infrequently, sometimes stayed

(Testimony of James T. Burns.)

fifteen minutes and sometimes longer. Frequently he did not come for days. The personal relations between Oesting and Dr. Freeman when I went there first they were not on very good terms. They did not speak. I would not say they were enemies or that they were hostile. All I know is that they did not speak. I noticed they were unfriendly and that Oesting was running the business then, as a rule. Naturally, we took our instructions from Oesting regarding the business end, regarding the conduct of the business. If Mr. Oesting was not there, I could ask Dr. Freeman. I would not take anything upon myself to do. If anything came up that had to be done, if Mr. Oesting was not there, I would ask Dr. Freeman, [144] regarding the payment of money, or something of that kind. After the conduct of the business, the carrying on of it and the treating of the patients, that portion of it I did not consult Dr. Freeman about at all. The only thing I consulted Dr. Freeman about would be in the absence of Mr. Oesting as to the payment of a bill against the company for drugs or services or something of that kind, anything that came up in a business way that I could not handle myself. Rent and bills for supplies and drugs, all those things I would consult Dr. Freeman about when Oesting was not present, but otherwise I did not have anything to do with the management of the business, that is, conducting the treatment of patients.

I found these form letters there when I went there, and was not instructed by Mr. Oesting as to

(Testimony of James T. Burns.)

how to use them. I was instructed by whatever doctor was in charge at the time—I don't know whether Dr. Putnam or Dr. Rice. They told me the formal routine, how it was done by them, and by the former stenographer. If they had any special instructions to give about a letter, those doctors in charge would give them to me. The dividend checks were made out by me in accordance with the instructions that were received at the directors' meetings, and I figured out how much the dividend should be, and made the dividends accordingly, and reported to the board of directors how much money there was and how much of a dividend they should pay. That is practically the way it was after I went there. All of the employees practically got besides their salary a commission. I was not hired by Mr. Oesting. I was hired by Mr. Putnam.

I spoke of the place being closed. It was closed in January, the 8th of January. I did not know the particulars about the place being closed. When it was closed, all of these things were left in it, these books and papers, and there was a lock put on the door. [145] I think Mr. Williams took the keys away—I think he had the keys. I do not think Dr. Freeman had a key at all.

I do not know that for many weeks he tried to get a key and could not get it. After the place was closed, he had a locksmith down there and tried to get in, and evidently he could not get in. I did not know that Mr. Williams was acting in conjunction with the State Board of Medical Examiners. He

(Testimony of James T. Burns.)

was acting for Mr. Williams. He was attorney for Mr. Freeman and Mr. Oesting for a while. Mr. Ward was acting in conjunction with the State Board of Examiners, I believe. He was the attorney for the State Board. I have no knowledge that Mr. Williams was acting in the matter about the closing of the place. Mr. Williams was present, but Mr. Ward was not. He did not tell me what Mr. Ward had said about closing the place. I heard some discussion there. I don't know just when it was that I went back and found the books and papers were not there, but sometime after I went there three or four times. The furniture was taken away about the last time I was up there—the furniture was there the last time I was there. I do not know where it was taken. The detective with the Medical Board of Directors was there once to my knowledge, but not during the conversation.

Redirect Examination.

This closing of the place occurred after this indictment. At that time Dr. Freeman and Dr. Oesting hired Mr. Williams and Mr. Choynski as their attorneys, and they were paid jointly out of the funds of the business. At the time the place was closed, *there*, Mr. Williams was the attorney for both of them. He was at the place the day they closed. I do not know about the keys. Williams was then acting as attorney for both Oesting and Dr. Freeman. I kept the books and know the attorneys were paid out of the funds of the concern.

(Testimony of James T. Burns.)

Q. Now, I show you here three papers, and ask you whether or not you have ever seen either of them before?

A. Yes, I think I perhaps wrote that out the other day.

Q. That is Dr. Freeman's signature, is it?

A. Yes, I think it is. I was employed at the place as bookkeeper and cashier at that time. I recognize that as the signature of Dr. Freeman, and this one also. That is so with all three of them.

Q. I offer these in evidence. This is a letter addressed to the State Board of Medical Examiners, Charles B. Pinkham, M. D., Secretary: "This is in reply to your favor of September 23, 1913, in which you call our attention to Section 18 of Senate Bill No. 813 approved and effective August 11, 1913."

(Document marked "United States Exhibit No. 14.")

Mr. PRESTON.—A similar certificate under date of March 17th, 1914, in which it gives G. M. Freeman, M. D., Bellevue Hotel, certificate 1877. C. B. Putnam, M. D., Gough and Hayes, Certificate 1888. E. J. Rice, M. D., Oak and Pierce, Certificate 1899. Signed "G. M. Freeman, and subscribed and sworn to before me this 18th day of March, 1914, John R. Tyrrell, Notary Public in and for the City and County of San Francisco, State of California."

Here is another one under date of November 23, 1914, G. M. Freeman, M. D., Bellevue Hotel, San Francisco, College of Physicians and Surgeons, Baltimore, 1873. Certificate No. 771, January 10,

(Testimony of James T. Burns.)

1877, Medical Society, State of California. E. J. Rice, M. D., 986 Market Street, San Francisco, Medical Department, University of California, May 16, 1899. Certificate issued July 11, 1899, No. 5279. Harry McGarvey, address unknown, chemist. C. B. Putnam, M. D., 986 Market Street, San Francisco, Missouri Medical College, March 6, 1883, License No. 2375. Medical Society State of California, May 7, 1888. Signed G. M. Freeman, M. D., and [147] sworn to before the same notary. This oath is as follows:

“G. M. Freeman, M. D., being duly sworn, on oath deposes and says: That he is and at all times herein mentioned was a resident of the city of San Francisco, county of San Francisco, State of California, and is secretary of Dr. L. J. Jordan, Inc.; that on the 24th day of November, 1914, Dr. L. J. Jordan, Inc., was served with a written demand by the Secretary of the Board of Medical Examiners of the State of California, pursuant to the provisions of Section 18 of an act of the legislature, approved June 2, 1913, and known as the ‘Medical Practice Act’; that within 60 days immediately prior to said 24th day of November, 1914, certain physicians have been associated with and employed by Dr. L. J. Jordan, Inc., in the practice of medicines and surgery, or other system of treatment of the sick or afflicted whose names and addresses and license and authority for practicing medicine or surgery or other treatment of the sick or afflicted are as follows:

(Testimony of James T. Burns.)

(The documents were marked "United States Exhibit No. 15.")

If anything came up regarding the expenditure of money, or something of that kind, I would ask Dr. Freeman something about it in the absence of Mr. Oesting. That did not relate to ordinary things, something out of the ordinary. Dr. Freeman wrote checks or signed checks himself while I was there two or three times. I remember of his signing the rent checks. He may have signed some drug checks.

Dr. Freeman came rather infrequently. He would not say very much to us. He would ask how the business was, or something like that, and he might pass through my part of the building and go in and talk to the doctors. I do not know that he knew of the existence of these stock letters at the time I first went there, but I suppose he did. [148]

Mr. FAIRALL.—I move to strike out the supposition of the witness.

The COURT.—Let it go out.

Mr. PRESTON.—Q. What opportunity did he have to see and know what was going on?

Mr. FAIRALL.—We object to that on the ground that it is immaterial, irrelevant and incompetent.

The COURT.—Objection overruled.

A. The same opportunity I did.

These two men began to speak about December, 1913, November or December, 1913. I think that is the first to my knowledge. I saw them in conversa-

(Testimony of James T. Burns.)

tion after that time quite frequently.

I wrote the minutes of these monthly meetings, these dividend meetings, and they were signed by the secretary. There was a meeting once a year. There was no regular monthly meetings. Actually they did not have any special meetings. There was no gathering there, no meeting. I prepared these minutes myself, and would take them in for Dr. Freeman's signature. We had meetings annually, and they were all present then. I was not present at the meeting. I did not make out any reports of the business. At the time of the holding of these annual meetings, the books of the concern were present, but I do not know whether they used those books, or not. They could have. They were in the building and accessible. No special reports were prepared from the different books. Mrs. Freeman was there at the meeting. Addie V. Freeman is the wife of the defendant. I made out a separate check to her as a part of the dividend. Baker is a man connected with the Jesse Moore Hunt Company in the city. He attended some of the meetings, the annual meetings. I did not make out a dividend check to him. No attorney was present at any of these annual meetings. [149]

I was not present at any of the meetings, and could not say that they discussed any of the conditions of the business. The meetings were held in the building, but I was not in the room where they were. The meetings were held in one of the offices of the building. Dr. Freeman may have commented

(Testimony of James T. Burns.)

on the dividend, saying it was rather a small dividend, or something like that, but I do not remember particularly. Dr. Freeman never at any time dissuaded or attempted to dissuade me from attempting to send out any of this literature to my knowledge. Roughly, I should say about 30% of the business was mail order business. That is a rough estimate. I do not remember where this litmus paper was purchased. I do not remember that any was purchased while I was there.

I know some analyses were made of urine, but I do not know whether analyses were made in every case, because that was out of my line entirely and I was not in any way connected with that. I do not know of any that was not analyzed. I suppose they had all the facilities to make chemical analyses. I do not know; that is the only analyses made, chemically. Two or three of the physicians had microscopes of their own there.

Recross-examination.

Mr. FAIRALL.—Q. The district attorney asked you if Dr. Freeman ever tried to dissuade you from sending out this literature, and you said no, that you could not remember. So far as you know, he did not know you were sending it out, did he?

A. I suppose he knew what my purpose there was. I was there for the purpose of—

Q. That is only a supposition on your part. You don't know that he knew you were sending it out?

A. He knew I was writing letters. He did not see me mail them; I don't think he knew I mailed

(Testimony of James T. Burns.)

them. They were generally stock letters, not all of them, some of them [150] were personal that I wrote. These letters that were written by the doctors in charge of the cases were by the doctors that looked after them, not Dr. Freeman. I do not know anything about the chemical laboratory. There was so much of a dividend each month, and I wrote up the monthly report in the minute-book, and passed the minute-book later to Dr. Freeman who signed it as secretary, without having a meeting of the board of directors at all.

Testimony of Fletcher McNutt, for Plaintiff.

FLETCHER McNUTT, called as a witness on behalf of the United States, after being duly sworn, testified, as follows:

My full name is Fletcher McNutt. I am a general practitioner of medicine, and have been since 1900. I am a graduate of the medical department of Harvard University. I am a member of the Royal College of Surgeons of England. I am engaged in general practice, but most of my work is in genito-urinary diseases, in other words, gonorrhoea and syphilis. My offices are at 135 Stockton Street in this city. I have been practicing here since 1900—two years less. I studied two years after graduation in Europe. I saw some of the correspondence, diagnosis blanks, and letters in these files here, but I did not look over them very carefully.

Referring to "Government's Exhibit 1," wherein the following letter is written to Dr. L. J. Jordan: "I have seen your advertisement, and am writing

(Testimony of Fletcher McNutt.)

to you to know if you have any medicine to restore my lost powers, now that I am eighty years old," to which the reply was made that he was eighty years old, and so on, there is no information on that blank at all that would lead a man to make a diagnosis. A man when he is eighty years old does not feel as well as he used to feel. I would consider a man in that condition, that did not feel as well sexually as he used to feel, absolutely normal, of course, for the age. After reading that [151] diagnosis blank, this question blank, and the other information contained there, I should say this man should need no treatment of any kind whatsoever.

Q. I will ask you whether or not, in your opinion, he would be suffering from any of the diseases I will now read to you: "From the data you sent me, it is my judgment that you have an excess of amorphous urates and phosphates, indicating wasted energy and anaemia neuresthenia, at the expense of some of the functions of the body." I will ask you whether or not the symptoms here set out indicate any of the troubles mentioned there.

A. The amorphous urates and phosphates are normal constituents of the urine, and they will show in the urine; it depends entirely upon the reaction of the urine; if the man has been taking a vegetable diet, it will show; if he has not, it will not show, depending entirely upon the acidity or non-acidity of urine, whether it will show. Amorphous urates and phosphates do not indicate anything. They are present in every man's urine. I would not say they

(Testimony of Fletcher McNutt.)

indicate wasted energy. Certainly they do not. They are normally present in every man. Anaemie is told by an examination of the blood, not of the urine, and neurasthenia is told by talking to the man, questioning the man. Anaemia is a blood disease. Neurasthenia is a nerve disease. It is a nervous exhaustion. The only way you could tell that would be to intimately question the man. You cannot tell anything from this whether or not the patient was capable of producing healthy or unhealthy spermatazoa, not from the urine.

You can tell diabetes if there is sugar in his urine; but you cannot tell anything about diabetes unless you have sugar in your urine. There is no warning of the diabetes at all.

The question is whether there are any symptoms that would [152] warrant a sentence like this, in reply to the patient: "There is no evidence of Bright's Disease or proof of Diabetes, although an overworked kidney may lead to both."

A. That statement is correct, an overworked kidney may lead to both.

Q. What about this statement: "You will find mucuous strings flocculi or sediment in the urine indicating prostatic inflammation at the neck of the bladder with the consequent loss of vitality." Is there anything here to indicate that state of affairs exists?

A. You can find mucous strings in any urine. It does not mean anything.

Considering all things contained in this corre-

(Testimony of Fletcher McNutt.)

spondence, there is nothing that would indicate the man needed treatment at all. Litmus is a kind of a moss that grows on rocks, and it is used in medicine to tell whether a fluid is acid or alkali. Normally the urine of an ordinary human being is acid, depending upon the diet. If you eat asparagus or vegetables for lunch, you will have an alkali, and in the afternoon if you eat meat, you will find acid urine. The presence *or* acid or alkali in the urine does not indicate anything, because it changes probably two or three times a day, the reaction of the urine content. It depends upon the amount of acid salts he takes in; if he takes bicarbonate of soda, or the salts that are in fruits or in vegetables, it will change the reaction of the urine from acid or alkali, and he will be in a normal condition.

Q. Take the second diagnosis I show you. Take a man 25 years old, weighing 185 pounds, 5 feet 11 in height, American, farmer, 10 years' work did not fatigue him, not confined indoors, and dreamed off a few times, not very often; his erections were all right, not too fast or too slow, urinated four or five times daily, and had no trouble, can you say whether or not that man was in a [153] normal or abnormal state of health?

A. I would say that that man was in a perfectly normal condition. A normal man will have these seminal emissions two or three times a month, provided he is young, and provided he has not had intercourse during the time. If Mr. Anson Ashford came to me with the symptoms detailed here, there

(Testimony of Fletcher McNutt.)

would be no diagnosis, and I would tell him to go home. From the symptom blank, there is nothing wrong with the man.

Q. Take the case of Mr. Millspaugh, 54 years old, weight 180 pounds, height 5 feet 11, married 30 years, American, carpenter, employed all his life, able to have sexual intercourse about once a month, intercourse is satisfactory in every way, urinates four times daily, and everything else is all right, stomach, bowels and all the rest, would you say this man was sick or well?

A. I do not see that there was anything wrong with the man at all.

Mr. FAIRALL.—Q. Suppose he was not able to have intercourse more than once a month, a man of his age?

A. There are lots of men at 54 cannot have intercourse at all. You could not do anything for them anyhow. There are no known remedies for loss of manhood.

The tests commonly applied to urine for the purpose of determining what may be determined from an examination of that character in regard to the health or physical condition of the individual are: You would take a reaction, that is, as to whether there is acid or not, with the litmus paper you are speaking of; then you take the specific gravity, considered to be somewhere from ten to fifteen—ten to twenty. The test for albumen indicates Bright's disease, and the test for sugar indicates diabetes. Outside of that, you cannot do much, if anything

(Testimony of Fletcher McNutt.)

at all, with the urine. If you were to put cold tea with a little ammonia and glucose into it and send it to me for examination, I might be able to tell you [154] whether it was urine, or not, if you wanted me to test to find out whether it was, or not. I would test it with hyposulphite of soda. With the ordinary test you cannot tell whether it is urine, or not. Even Dr. Jordan could not tell. It would take a good chemist to tell the difference.

Q. Take the case of a man, Doctor, whose name was George Alberts, living in Tombstone, Arizona, had his express office there, and was 22 years of age and weighed 141 pounds, and his hair was light brown, and so are his eyes, and his height was 5 feet 4 inches, and he was not married and wanted to get married; American nationality, a clerk, and work did not fatigue him; he is confined indoors most of the time, did not dissipate any, had sexual intercourse about once a month, which was satisfactory in every way; his seminal discharges were neither too quick nor too slow, didn't know whether he lost semen or not, his erections were all right, and no loss of sexual power that he knew of; his scrotum hung rather low, no stricture, urinated three or four times a day, and the urine appeared to be light yellow in color, passage was not painful, stomach was good, bowels were good, no piles or pinworms, no inflammation of the rectum, no rupture, no gonorrhoea, no clap and could not call at the office, what would you say, if anything, was the matter with him?

A. There was nothing wrong with him at all. He

(Testimony of Fletcher McNutt.)

would not necessarily be a little weak once a month. I would say as a practicing physician that this man was in no need of medical attention. There is nothing shown to be wrong, so why treat him for something, when he has shown nothing wrong?

Q. Take John Caroway, his age 20 years, weight 150 pounds, height 5 feet 8 inches, black hair, color of eyes blue, not married, American nationality, not working just now, if he did work it would not fatigue him, not confined in bed and did not dissipate in any [155] way. How often do you have sexual intercourse? No much. Is sexual intercourse satisfactory in every way? Yes. Are the seminal discharges (during sexual intercourse) too quick or too slow? No, all right, I guess. Do you lose semen in your urine? Not that I know of. Do you lose semen during movement of bowels? Not that I know of. Do you have emissions of semen at night with or without dreams? Yes, with dreams. Does the semen ever pass from you during the day when you have amorous thoughts or when in the company of women? No. Are you attended by erections? Yes. Are the erections weak? No. Is there any loss of sexual desire or power? A. No. Have your privates wasted or become small? No. Is the prepuce (foreskin) long? Not very. Have you any Varicocele (a knotted condition of the veins in the scrotum or bag)? No. Are the erections strong? Yes. Does the scrotum hang low? No. Is there stricture in the water passage? No. How often do you urinate? Four or five times a day. What is

(Testimony of Fletcher McNutt.)

the appearance of the urine? Light yellow. Is its passage painful? No. What is the condition of your stomach? All right. What is the condition of your bowels? All right. Are you troubled with piles or pinworms? No. No inflammation or soreness of the rectum. Not restless and wakeful at night. Never had gonorrhoea. Never had gleet, never has been under treatment, and could not call at the office. What disease would you say he was suffering from? A. How old is the man?

Q. He was 20 years old.

A. Well, a man 20 might have seminal emissions two or three times a month, which would not hurt him. Certainly such a man would not need treatment. He mentions nothing in his blank there that would lead me to the conclusion that he did need treatment. As to each of the five persons you have described to me, there has not been one symptom that would indicate need of [156] treatment. In regard to the loss of power to perform the act of sexual intercourse, if a man is worn out with age, if he is fifty or sixty and is worn out, you cannot bring it back.

Cross-examination.

In the tests of urine, there is a test for acid, a test for sugar, and a test for albumen. If a man patient were to send me a bottle of liquid that looked like urine, without testing it to find out whether it was urine or not, I would assume that it was; and assuming that it was urine, if somebody had dropped a little juice of lemon in it, it would cause an acide

(Testimony of Fletcher McNutt.)

reaction. But it is not the same acid as in urine. That would show on litmus paper. Assuming that someone had dropped a little glucose in it, it would show the reaction, the reaction for sugar. You cannot make a diagnosis for diabetes from urine alone. It is one of the tests. You would have to drop something else in besides salt to raise the specific gravity. You could not raise it high enough with salt. You could raise it with sugar, not with salt. The salt would have some effect on it, but it would not have as much effect as adding the glucose. Anything you put in the urine raises the specific gravity. Flour would not raise it much.

If I had received what was thought to be urine and made the tests and found the result that you speak of, I would be justified in assuming that somebody had doctored the urine and had given me a false sample, or something that was not urine at all. If someone had treated me in that manner, I would think it was rather an unfair test, and I would not feel as though I had been treated fairly as a physician, but the rule in life insurance companies is that any man wanting to be examined for life insurance must pass the urine in the doctor's presence. You take no chances with anybody. Urine that is sent is not accepted at all. He must pass [157] it in the doctor's presence, so there is no substitution of urine. I made the statement that there is no cure for loss of manhood. That is true, according to the best authority. I do not think it is true that a man might believe that he could not have sexual inter-

(Testimony of Fletcher McNutt.)

course, while in truth and in fact he was well equipped and able to have it, if he did not have that belief in his mind that he could not. The mind has something to do with the actual power to complete the sexual act. If a man is healthy he will not have an abnormal mental condition. I do not think that there are many, although they are able to do it, actually believe that they cannot. I do not believe much in Christian Science treatment. What you are talking about is what we call normal sexualism. I have studied that for two years, and all of these people were insane, and they exhibited other symptoms, symptoms of insanity. I do not believe that it is possible for a man absolutely sound in mind and sound in body and able to perform the sexual act, to believe that he cannot and absolutely fails in the act. A man might fall down in the act under fear or under momentary conditions, but it does not become chronic. They do not very often become frightened and see a doctor about whether they are able to perform the act. I have never been consulted by men frequently who said that they were not able to perform the act, but afterwards found they could. There are records of cases of men of strong mind, who failed in that regard, simply because they thought they could not, but they recovered in a week or a month afterwards. They recovered normally and naturally. If I were called to treat a man about fifty years of age, who had a drawn face, with wrinkles across his forehead, a despondent look, and he had an enlarged prostate

(Testimony of Fletcher McNutt.)

gland, and was complaining of loss of manhood and sexual power, I would have to make an examination of him first to find out whether he did or did not [158] need any treatment. If I found an enlarged prostate gland, I would not treat him by medicine. We do not treat them by medicine. We treat that locally. It would depend upon how a doctor treated him whether I would regard the doctor as doing a fraudulent act who did treat him the best he knew how under those conditions. If a man has an enlarged prostate gland, he is naturally sick, but that would not necessarily bring about some loss of sexual power. I have never seen any direct connection between the two. A man does not get any enlarged prostate until after fifty or sixty, and then his sexual power is beginning to decline, anyhow. The enlargement does not cause the decline of the sexual power, but age causes the decline of the sexual power. As the prostate enlarges the sexual power would naturally decline at that age.

Testimony of Dudley Tait, for Plaintiff.

DUDLEY TAIT, called as witness on behalf of the United States, after being duly sworn, testified as follows:

My name is Dudley Tait. I am a surgeon. I have made a special study of the genital organs of the human system, rather an extensive study. I have heard the testimony of Dr. McNutt who just preceded me on the stand. I heard you read these various symptoms, and have made an examination of them myself independently of that. I should say

(Testimony of Dudley Tait.)

unqualifiedly that there was nothing in the clinical histories given here to justify a conscientious physician in arriving at a precise diagnosis, and especially in attempting to base a logical therapeutical course of treatment. There is nothing to justify the physician in asserting the presence of anything abnormal. While it is probably impossible to state scientifically what constitutes a normal individual, we recognize clinically or practically abnormalities, and there is nothing which I consider abnormal in the facts or in the answers given in these blanks. There is nothing [159] in medical science by which you can say that there is a rule as to the power of performing sexual intercourse for so many times within a given space of time, because that depends upon two individuals, both of whom might or might not be normal. The number of times he might do it is not sufficient information to arrive at the question of his normality or abnormality.

The dominant note in all of these symptoms is in the direction of a normal function. It would appear to me that these symptoms were drawn to describe a normal man rather than an abnormal man. They are suggestive of a normal individual, an active individual—an active organ, if not an active individual.

Q. What would you say about what treatment, if any, the practitioner in the profession would prescribe for a man say 80 years of age that had lost his sexual power?

A. Well, that depends. I have operated for enlarged prostates at 80 and beyond 80, and they were

(Testimony of Dudley Tait.)

active sexually. If I found a patient who was 80 years of age and was not able to perform the act, I would not prescribe medicine for his condition. I would look into the social surroundings first of all, and examine him. It is not probable that a surgical operation would aid the condition. It is generally for chronic conditions. It is not a sudden act. The fact that a man passed some seminal discharges in his sleep or dreams does not indicate abnormal condition. It is generally the reverse. It indicates an active organ, a healthy organ secretes. A man 54 or 55 years of age, who is able to perform the act of sexual intercourse once a month, would not be in an abnormal state.

I have never seen a physician misled as to whether or not a given fluid is or is not urine, if the series of tests that were employed were up to date. In hospitals, or still further in universities, we naturally set a standard which would eliminate all [160] such possibility of error. We rely principally upon the microscopic examination, without which no analysis of urine is certain. Take the solution here of a little ammonia, a little glucose, a little water and tea leaves, the microscopic examination would reveal the general absence of any urinary elements. Some of the urinary elements are, a portion of the urinary tract matter, ureter, urethre, kidney substances and various crystals. There is a secretion of tissues. All the tissues are renewed in the body, always changing. A superficial examination by an interne in any hospital would reveal that that was not urine.

(Testimony of Dudley Tait.)

If a man pronounced it urine when it was not, it would certainly show he was not qualified to practice medicine.

Q. Is there any other medical side to this medical question that we have mentioned upon which you would give us any information as to whether or not this case is one of a *bona fide* attempt to treat a real disease?

A. No, except as I have already said. The evidence tends to prove it only as normal as we would expect. Apparently that is true of each of these five cases. The evidence offered does not prove anything abnormal. I would not attempt to make a diagnosis on such flimsy evidence. As far as I could tell there would be nothing abnormal—no justification for having a physician.

Cross-examination.

There are times when men naturally lose their sexual powers. That depends upon the age of the individual. I would place in order of prevalence fatigue, fright, fear of disease, for instance, which is evidently akin to fright, and different physical diseases, local or general. I mean both fright at the very time of the attempted sexual act, or fright covering a period preceding it. Any acute disease would contribute to that loss, anything involving, [161] for instance, any infection of the urinary tract causing pain. The most frequent cause is gonorrhoea, acute infection of the urinary tract. Acute gonorrhoea sometimes brings about this loss of sexual power, and that, of course, is naturally fear, on

(Testimony of Dudley Tait.)

account of the pain. Gonorrhoea may be a chronic cause by extensive involvement of the sexual tract. That is extremely rare, because nature has been very free in this allowance of a very large amount of tissue, and does not take much substance to carry on that function. You may lose 98% of it and still have enough. Syphilis may bring about that result, but that is extremely rare. Chancroids never do it. The effects resulting from chancroids seldom give rise to that condition. Tumors do not, unless they are very extensive. A patient suffering from stone in the bladder, or tumor in the bladder may be in that condition, but these are very exceptional conditions. Not necessarily an enlarged prostate will produce that condition. The prostate gland is generally the hyperfunctional gland of a man who generally oversteps the mark. It is the frequent intercourse which gives rise to congestion, it leads to his state of quiescence. The complications of gonorrhoea might cause that loss of power. I have already alluded to those; atrophy, that is, the wasting of the organs, that is one of the complications I have already mentioned. Outside of that, with the exception of very rare cases, I think I have covered the ground. Gonorrhoea is the most frequent cause of the wasting of the organs. Masturbation would tend to increase the function; the effect of masturbation has been greatly abused by the uneducated physician. I mean to say, in the results. They have made a rather dark picture of its results, and their findings have never been verified. They have

(Testimony of Dudley Tait.)

simply told an untruth. In the majority of cases, the patient knows that he is unable to perform a sexual act. If the [162] patient is suffering from an acute condition, from an infection, the pain is real, and it is not imaginary. I have never seen a chronic condition brought about by masturbation. I am not referring to conditions that lead to masturbation, but I am referring to abnormal conditions due to masturbation. Insanity is not due to masturbation. In other words, masturbation in young boys has been grossly exaggerated as to its consequences, and the presence of abnormalities, anatomical, psychological or pathological following masturbation are very much overdrawn.

I have already indicated in answer to question, that that power is due, or comes, rather, from, first, the individual, and secondly, the conditions surrounding that individual; both factors are equally important. You cannot discuss one without the other. It may occur that a man is in good health and sound and able physically to perform the sexual act, but not able by reason of a mental condition brought about by his belief that he cannot, but I have not seen such cases. I do not wish to minimize the psychological factor that is present sometimes. The influence of the mind on the body cannot be ignored by any modern physician, and that should not be excluded; that might apply to exceptional cases. A doctor sometimes treats that condition of mind, which may bring about an absolute cure in the patient. A doctor may be called upon in temporary disability

(Testimony of Dudley Tait.)

to act as an adviser along those lines. In other words, give the patient confidence and hope and belief of his ultimate recovery. That may occur after a severe illness, for instance, a condition of fatigue; a man may need advice along those lines, purely mental, but never therapeutical; neither medicine nor surgery. There is a difference between a psychological condition and an actual disease. Very often you find a psychological condition arising in your practice in the treatment [163] of patients, but not along these lines. I have already said that if those very rare possible cases of temporary disability a few words of kindness might be necessary in order to rid the patient's mind of fear as to the presence of anything abnormal.

Redirect Examination.

Mr. PRESTON.—I will ask you whether or not you would consider it an application of what you call a mental suggestion of absent treatment to say to a patient something like this: "I presume you are suffering with some ailment that you do not understand, and from which you desire relief. A knowledge of sexual hygiene, self and sex and their relation to life and health, diseases of life-giving organs, vicious practices and their results and sequels, do not come intelligently of themselves, nor correctly from ordinary, every-day sources, nor by the advice of ignorant friends. I am sure you wish to make a name for yourself; you do not want to be a failure before your time. You wish vigor and stamina in order to overcome the difficulties you meet in the

(Testimony of Dudley Tait.)

battle for existence. To do this, you must not be handicapped by weak organs. You must be strong in the loins, and gird them up, as directed in the Good Book. No chain is stronger than its weakest link. Ships in storms are at the mercy of the weakest bolt. Self-pity and the demon of discontent, the weight that holds thousands back, is caused by ill-health of one or more of the vital functions. No matter who you are, no matter how much money you have, no matter if you are able to pay cash, no matter if you must have terms, no matter what the conditions, you cannot afford to neglect yourself. Self-preservation is the first law of nature. This relates to your health, as well as fighting to defend your life, or the life and health of your offspring."

Another one is as follows: "This is in reply of yours of recent date. The chemical test papers and question blank were [164] carefully and scientifically considered. From this data it is my judgment that you have an excess of amorphous urates and phosphates, indicating wasted energy, anaemia, neuresthenia at the expense of some of the functions of the body. You require and demand treatment to place you on par with your fellow-men. You will find the testicles are weak and flabby, and are not manufacturing healthy spermatozoa. There is no evidence of Bright's disease or proof of diabetes, although an overworked kidney may lead to both. You will find mucuous strings, flocculi, or sediment in the urine, indicating prostatic inflammation at the neck of the bladder, with the consequent loss of

(Testimony of Dudley Tait.)

vitality and absence of complete sexual satisfaction absolutely required by all male animals of health. Your case is a complicated one, requiring careful and scientific treatment on the part of any physician who takes upon himself the responsibility of treating you. If you give your case into my hands, I must have honest co-operation on your part, following to the letter my instructions."

I will ask you whether or not such matter as I have read you would be calculated, in your opinion, to brighten up the individual and raise his hopes of a cure?

A. It certainly would not. Judging from what is the accepted standard of the practice of medicine to-day, such teaching is not only unwarranted and dangerous, but it would be considered criminal.

Q. Now, in regard to this question of giving the patient a little pat on the back by way of encouragement, that would not be done in chronic cases?

A. It is not called for. There is nothing about this to show, to my mind, that it was a *bona fide* attempt to treat either of these parties.

Recross-examination.

Mr. FAIRALL.—When you say "criminal," you do not mean that which violates any law of the land. You speak of criminal as the [165] layman sometimes does, as highly reprehensible and conduct such as should be condemned?

A. No. I refer to the ethics of the medical profession, and I think that any doctor belonging to the smallest medical society would surely lose his mem-

(Testimony of Dudley Tait.)

bership if such documents were presented before the board of directors of that society; that I am certain of, absolutely certain of, in any county or any city in this country.

Q. You would require proof that the doctor sending it out had knowledge of it?

A. I am considering this as evidence. If such evidence were placed before the board of directors.

Redirect Examination.

Mr. PRESTON.—Q. I will ask you what would be the effect upon the ordinary layman to read or have read to him a letter such as the one I have just last read to you?

A. I do not think I am exaggerating when I am saying in the extreme it might be suicidal. The ordinary individual would not be capable of gaining anything from that excepting a scare.

Testimony of Harry McGarvey, for Plaintiff.

HARRY MCGARVEY, called as a witness on behalf of the United States, after being duly sworn, testified as follows:

My name is Harry C. McGarvey. I am a graduate of medicine and licensed to practice in this State. I have been licensed last December. Have been licensed in the State of Ohio since 1897, and have been in San Francisco, or on the coast, one year. I came here in 1914, and during that year was employed at the place of Dr. L. J. Jordan—the place known as Dr. L. J. Jordan, Incorporated. I was not admitted to practice medicine in this State at the time I was employed there. I obtained the information

(Testimony of Harry McGarvey.)

that led me to go there for employment from a newspaper advertisement. I got the facts leading up to my employment from Mr. Paul Oesting. I know the defendant here. He was at the institution while I was there. He [166] would appear there during the day, usually once a day, sometimes twice a day, and sometimes he would not be there for two or three days. I understood that was his headquarters. He did not have any special office at the place. There was a desk there where he got his mail. Mail was received there for him. There was museum in connection with this place at that time. Also a reception-room, private office, two consultation-rooms, a drug-room and a small operating-room. Dr. Rice was in attendance besides Dr. Freeman at the time I was there. I was hired as an assistant to do such work as a male nurse would do, and do laboratory work. I was under the supervision of Dr. Rice. I quit my employment there about the middle of last October, having been there about six months. At the time I was employed there I had been practicing medicine in Ohio continuously for fifteen years. The facilities that were there at this institution during the six months I was there for an examination of urine were—there was litmus paper, a hydrometer for determining the quantity of analysis, and test tubes. There was no microscopical instrument. The microscopical instruments usually used in an analysis of urine are those that have a magnifying power of 600 times, 300 to 600 times is the usual lens used; then they have for close bacteriological work,

(Testimony of Harry McGarvey.)

one that will magnify 1200 times. There were no such instruments there—no microscopes there at all; no other instruments that would fill the place of a microscope to my knowledge. During the six months I was there, urine came in through the mail or otherwise for the purpose of examination. During the time I was there, no microscopical examinations were made of urine, to the best of my knowledge. Quite often there was no test whatever made of urine. The urine was thrown in the tank. I have heard that referred to as a carpet test. There were sold at that place during the time I [167] was there appliances or instruments supposed to be useful to mankind. There was a so-called penal developer and electric belt or apparatus that was worn around the body. The effect of the penal developer on the patient was principally psychological. The constant use of such an instrument had a tendency to engorge the organ and weaken the walls of the blood vessels of the parts, and certainly no beneficial result came with it. It is a fact that it would have a penal effect to a certain extent. That instrument sold for whatever they could get for it. I know one that was sold for \$50. The lowest price I know one sold for was \$25 I think. The instrument that sold for \$50 and \$25 was the same thing. This other appliance I spoke of was a belt composed of a number of copper discs enclosed in a covering of felt and silk, which went about the body and about the parts. Its effect was supposed to be electric, stimulating on the nerves—supposed to be a nerve tonic. In my opinion, it did not have any such effect.

(Testimony of Harry McGarvey.)

The efficacy or nonefficacy of such instrument was discussed in the institution while I was there a number of times. I never talked to the defendant in regard to them.

Mr. FAIRALL.—It does seem to me that in order to show a scheme to defraud, they must show there was a scheme to get money by means of fraud; that the defendant knew that the means were fraudulent and had no belief in their efficacy as medicines, and that he was actually engaged in an attempt to gain money in a fraudulent way.

The COURT.—The objection will be overruled.

Mr. FAIRALL.—Exception.

It was discussed by Dr. Rice and myself. I think we both concurred in the opinion that they were not very efficient.

Q. Did you ever talk to Mr. Oesting about it?

Mr. FAIRALL.—We object to that upon the ground he is not a [168] defendant here and is not under indictment and was excluded from the indictment.

The COURT.—The objection is overruled.

Mr. FAIRALL.—Exception.

Mr. PRESTON.—Q. Did you ever discuss with Paul Oesting, the president of this company, any question as to whether or not this institution was a *bona fide* one for the purpose of legitimately curing the ills of mankind

A. Yes, that was very thoroughly discussed before I connected myself with the institution. I was given to understand at that time that it was a *bona*

(Testimony of Harry McGarvey.)

fide specialist's office, and that they were doing a straight legitimate business; inasmuch as they were the only ones in the city that were open and running, it lent some credence to my way of thinking that he was telling the truth.

Q. Did you change that view?

Mr. FAIRALL.—We object to that as immaterial.

Mr. PRESTON.—I am not asking whether you changed your views, but I am asking whether Paul Oesting ever gave you any other information on the subject afterwards?

The COURT.—Objection overruled.

A. No, it was not necessary.

Q. Take the question of blood tests. Did you have any instrument there suitable for blood tests?

Mr. FAIRALL.—We object to the testimony as to blood tests upon the ground that there is no evidence here of any patient suffering from anything which would require blood tests, and if any blood test was ever taken or necessary to be taken—

The COURT.—The objection will be overruled.

Mr. FAIRALL.—Exception.

A. The only instrument for making a blood test was a little book filled with squares of blotting paper, and in the back of this paper there is a scale graduated in colors in such a way that it [169] gives you the percentage of hemoglobin in the blood, that is, in anaemia, of course the percentage of hemoglobin in the blood is low, while in a healthy rich-blooded person the percentage of hemoglobin is high. That was the only blood test in the institution.

(Testimony of Harry McGarvey.)

The ordinary instruments used for that purpose in the common practice of medicine are—in the first place, it is necessary to have necessary flasks and test tubes and centrifudes for separating the blood cells from the blood semen, and then a microscopic outfit for preparing slides, and sufficient equipment to properly examine these specimens minutely with a microscope. I know of a case where they took a specimen of blood from a patient and told them they had examined it when they had not. That was along during last August, the first of August.

Mr. FAIRALL.—We object to that upon the ground it is not within the time of the indictment, but is after the indictment.

The COURT.—The objection is sustained.

I knew of a substitute being made of water and some other substance of no medical properties in the place of *bona fide* serum for the purpose of injection.

Q. When was that?

Mr. FAIRALL.—This witness was not connected with the institution at the time mentioned in the indictment. On the question of similar offense, they never introduce evidence of offenses committed after the main offense.

The COURT.—If you had made an objection on that ground, it would have been sustained.

Mr. FAIRALL.—I make that objection, and ask that this testimony be stricken out.

The COURT.—The objection as an objection comes too late. The objection as made is sustained. The motion to strike out is denied.

(Testimony of Harry McGarvey.)

Mr. FAIRALL.—Exception. [170]

A. That was going on practically all the time during my connection with it.

Cross-examination.

In taking blood tests, if a physician is not properly equipped to do it himself, it is usual to send the blood out to a laboratory to have the test made. I am not equipped to make a Wasserman test. I would have to send blood out for such a test. That is a test for syphilis. For a test for Diabetes, I would not send that out. I would do it myself. For blood pressure we have an instrument for measuring that in our office. There are some men in town who are specialists in that and who sometimes get that work from all physicians. There are several in this town who are specialists on blood work and do that kind of work only. It is usual for physicians, even though they are high class physicians, to send that kind of work to laboratories that are equipped for doing the work. It requires quite an equipment and education to do it, a special education along that line. They are increasing their knowledge every day upon that question and men are becoming more expert in those lines every day. In regard to the old style way of treating patients by the physician doing the whole thing himself, they have various facilities or assistants that they can avail themselves of. The up-to-date physician, if he wants anything special done, sends it out. If he wants an X-ray photograph he sends for that. I would not necessarily be surprised if a man were a good physician and doing an

(Testimony of Harry McGarvey.)

honest practice, to see that his office did not have all these test tubes and methods of testing blood.

I never know of the Wasserman test being made there. I never saw a record they kept of Wasserman tests. I was only an assistant and did not attend to practice medicine. I was refused a certificate [171] by the State Board of Medical Examiners, while I was there, and after I left there I got a certificate after taking another examination. I did not get one on my first examination while I was connected with Jordan. After I left there, I did not take a list of the names of patients and did not advertise for patients that had been going to Jordan's Museum—no advertisement of that kind, nor did I send out any circulars, to patients who had formerly been there. There were a few of the patients that I knew I wrote personal letters to. I wrote to them stating that I was no longer connected with Jordan, but was practicing for myself. I do not know as I made any such statement as that I had found out that Jordan was not a reputable place, and that I would give them a better treatment. I did not say that I had learned that Jordan's was not a reputable place. I think at that time the institution was closed. I said that the place was closed, and that I was prepared to treat people.

Q. Did you consider that highly professional?

Mr. PRESTON.—To which we object—

The COURT.—The objection will be sustained.

Mr. FAIRALL.—We except.

I have no great friendship for the people connected

(Testimony of Harry McGarvey.)

with Jordan's, not specially. I do not know that I have a little feeling against them. I do not love any of them particularly any more than I would you or anybody else; there is not any particular enmity, as far as I know, no reason for it.

Redirect Examination.

There were tubes that came from the Wasserman laboratory in the office. On one or two occasions that I know of, those tubes were filled with blood, and to my knowledge were never sent out.

Recross-examination.

The effect of the penal instrument that was sent out was to [172] enlarge the parts and engorge the veins during the time it was used. I knew that it would do harm. I did not send it out. I had nothing to do with the matter. They were sent out for the purpose they were made, I presume. That is a natural supposition. The purpose for which the instrument was made would naturally be disclosed by the instrument itself. I do not know as it stated it would injure the person. I have seen them tried, but I do not know that I ever saw one used in that place.

I have never been in this business of selling that instrument before. I have seen the instrument before, but I never used one in my life in my business. I know the effect of it from my judgment, observation and knowledge. I never saw a patient wearing one. I saw a man that had used one for a month or two at this institution. I never saw him use it there; he took it home with him and used it at home

(Testimony of Harry McGarvey.)

Recross-examination.

The tincture of iron would be used as an astringent. It is a tonic, a blood tonic. It is a general tonic, and is not necessarily used to tone up the system and strengthen the organs of generation. To my knowledge, it has not the effect of strengthening a man's sexual desire. I do not believe that. I do not see how it could have that effect. It would not encourage the secretion of semen, to my knowledge. It increases the hemoglobin in the blood cells, when it is absorbed into the system. Hemoglobin is the coloring matter in the blood, corpuscles that give us the color; it is the oxidizing property of the blood, the property of the blood cell which carries the oxygen, and a composition of iron chemically administered to a patient, if absorbed, is taken up and forms hemoglobin and adds to the coloring or red matter in the blood corpuscles. It increases its oxygen-carrying power, and in that manner brings about a general building up of the blood. To a certain extent, that would result in strengthening the sexual organs. To my knowledge, it is not given for that particular purpose.

The rheumatism was located in his shoulders, arms, I believe. It was not in his back. He always complains of trouble in his arm and shoulder. I did not examine to start with. I examined him afterwards and treated him, but during the time he was coming to the Jordan institution, I simply followed the instructions of Dr. Rice in regard to his treat-

(Testimony of Harry McGarvey.)

ment. I do not mean to say that the medicines prescribed would not be of any benefit for his rheumatism. They would be of benefit to him. The remedy I mentioned is one that is used in the treatment of rheumatism, usually used. He had muscular rheumatism, what is known as that. He was able to [175] walk about when I found him. He complained of the rheumatism bothering him considerably. I could not say that he improved any afterwards. Sometimes when he called he said he was feeling better, other times he said he was not so well. Eventually I prescribed different treatments for him. To the best of my knowledge, I treated him honestly and give him the best treatment I could. I was acting in good faith with him. So far as I know, Dr. Rice was acting in good faith with him, so in that particular case, there was no fraud as far as I know.

Testimony of A. J. McDonald, for Plaintiff.

A. J. McDONALD, called as a witness on behalf of the United States, after being duly sworn, testified as follows:

My name is A. J. McDonald. I know the defendant here. I am inspector for the Board of Medical Examiners. I heard this doctor defendant make a statement before the Police Commission of this city with regard to who Dr. Jordan was in December, 1913. In answer to a question that he was asked, the question was, if a patient should call at the institution and ask for Dr. Jordan, what would you

(Testimony of A. J. McDonald.)

say? I am the doctor—that was the answer. I heard him make a similar statement before the Board of Medical Examiners, about that. He was asked the question, and he answered Yes. That was this present month. He told me on another occasion that he had been connected with the Jordan Museum for about fifteen years, and that it had cost him \$10,000.

Cross-examination.

I have charge of investigating for the State Board of Examiners in the northern part of the State, looking up evidence, and remembering the statements that are made in my presence and testifying to them in court. It is not my general duty to secure convictions where I can under the instructions of the Board. The secretary [176] never gives me any orders, with the exception of saying that this man is a violator or this man ought to be looked up. When he tells me the man is a violator and to go out and look him up, my purpose is to investigate and find out if he is violating the law, or not. Whether or not he is tried before the State Board of Medical Examiners depends upon whether it is a violation of the medical practice act, or in regard to professional conduct. We have never brought any doctor into a federal court. We sometimes prosecute them in the state courts. I try and remember things I hear in regard to statements and so on, conversations. The defendant was before the police commissioners, and the proposition was the action of the board trying to have the license revoked, the license of the Jordan

(Testimony of A. J. McDonald.)

Museum. On that application to revoke the license, they had Dr. Freeman there to testify. In answer to a question if a patient should call at the museum and ask for Dr. Jordan, what would you say? Dr. Freeman answered, "I am the doctor." In charge of the museum, or Dr. Jordan—that was not mentioned. Afterwards before the State Board of Medical Examiners he admitted that he did make that statement before the Police Commission. I recently had him before the State Board on an application to revoke his license. They took this little red book, that has been out fifty years. The evidence was that he was doing illegal advertising by means of that book. I looked after the case to a certain extent. The Jordan Museum has been under investigation ever since I have been with the Board, until it was closed. The proceedings of the State Board were taken against doctors who were there, who were practicing medicine. The doctors were the only ones that the Board had jurisdiction over. We are after anyone who is violating the medical act. Paul Oesting is not practicing medicine. We are after him the same as anybody else. No proceedings have [177] been brought against him. The Board of Medical Examiners has no jurisdiction over a person who is not a licensed physician, in regard to revoking a license, but if they are practicing medicine without a license, they would be prosecuted for that offense. We have made attempts to prosecute Paul Oesting since I have been with the Board, and every one else that has violated.

(Testimony of A. J. McDonald.)

To the best of my knowledge, Choynski and Williams were representing Paul Oesting at the time I was investigating him. The only consultations with lawyers that were representing Oesting in regard to the Jordan place that I can remember, is in regard to Dr. Rice's license. Mr. Williams spoke to me about Dr. Rice having a wife and child, and that we ought to try and give him a chance. I was after Dr. Freeman, each and every doctor that was in the place, Dr. Putnam also.

Q. Did you have frequent consultations with these attorneys as to what you should do?

Mr. PRESTON.—We object upon the ground that the cross-examination has gone far afield.

The COURT.—The objection is sustained.

Mr. FAIRALL.—Exception.

Mr. FAIRALL.—Q. Did you have any understanding or arrangement whereby Oesting was not to be prosecuted if he furnished you information against the defendant?

A. None whatever. I would just as soon prosecute him as anyone.

Q. Did he furnish you any information?

Mr. PRESTON.—To which we object.

The COURT.—The objection is sustained.

Mr. FAIRALL.—Exception.

Testimony of William C. White, for Plaintiff.

WILLIAM C. WHITE, called as a witness on behalf of the United States, after being duly sworn, testified as follows:

(Testimony of William C. White.)

My name is William C. White. I am employed at the Jordan Museum [178] or the L. J. Jordan place, in this city, first in April, 1909, and remained there on that occasion until the first of November of the same year. I was subsequently re-employed in November, 1913, and stayed there until the first of January, 1915. My duties were the same at each employment, that of janitor. "Janitor" comprised in my work, keeping things clean and taking care of the museum and relieving the manager during his time off. Mr. Robinson, during the time I was there, was the manager. His general duties were, he had general supervision over the whole thing, I suppose, over the whole outfit. There was a reception room there.

Q. What information did you give to the patient asking for Dr. Jordan?

A. We evaded the question. I asked them if they wanted to see the doctor, and if they asked for Dr. Jordan, I would not say anything, but just take them into the reception room. We did not come right out and tell them whether Dr. Jordan was there, or not. We would say to a patient wanting to know about Dr. Jordan that the doctor would be available in a moment—the doctor that was on duty.

The doctor who was in charge when I first went there was Dr. Lopp. I did not give any other information to patients in regard to who Dr. Jordan was. I never described Dr. Jordan to the patients.

Q. How often did it occur during the first time

(Testimony of William C. White.)

you were there that you would have patients or persons inquire for Dr. Jordan when you would tell them he would be in in a minute, and send him to the doctor in charge?

A. It might occur once a day. I was not on only during the meal hour.

Q. Did or not this same system obtain under your second employment?

Mr. FAIRALL.—We object to that.

The COURT.—The objection will be overruled.

Mr. FAIRALL.—Exception. [179]

A. I never received any instructions in regard to that matter, but I pursued the same policy. I never came out point blank and said to a patient, "This is Dr. Jordan." We used to say, "This is the doctor." Dr. Oesting said one day we were all Dr. Jordans. Oesting never had anything to do with the patients. I cannot remember during my first employment of Dr. Freeman answering the call of Dr. Jordan. I don't think Dr. Freeman showed any activity in the management of the business when I first went there. He and Dr. Oesting were not friendly at that time. They were not friendly as long as I was there. He would come in and stay a while and go out. He would not make any inquiry about the business of me, nor would I have any discussions with him of any kind. Dr. Freeman hired me the first time, and Dr. Robinson the second time. Dr. Freeman instructed me in regard to my duties the first time, and told me to keep the place clean and relieve the manager. I had nothing to do with sending out mail

(Testimony of William C. White.)

matter nor do I know that mail matter was sent out. I suppose I know something about a patient by the name of Murray, although that was not the name on the case sheet. The name was J. W. Wilson. That patient was there in November or December of 1913 or 1914. It was when I went there the second time. That would be the fall of 1913. I had access to the case cards governing his case. I know what was on them. The date of his visit and the date that he came there to take treatments were on the card case. I think it was just prior to the time I went there. I am not sure. I have seen Dr. Freeman in conversation with other members while I was there. I have seen him in the office with them. The patients would not be there then, not as a rule. I have seen him there when a conversation with a patient was going on.

I got my employment there first through an employment agent and the second time they came after me. During my first employment [180] at the institution, I saw what disposition was made there of urine that would come in packages through the mail. It was always thrown in the waste basket, and I took them out and threw them in the swill bucket. They were sometimes taken out of the package but sometimes not. The bottle itself was not uncorked or unsealed, in the original package, thrown away, considerable of it every day, more or less.

Cross-examination.

The physician threw it away, the physicians in charge of the case.

Testimony of L. F. Kebler, for Plaintiff.

L. F. KEBLER, called as a witness on behalf of the United States, after being duly sworn, testified as follows:

My name is Dr. L. F. Kebler. I am chief of the drug division, Bureau of Chemistry, United States Department of Agriculture at Washington, D. C. I examine urine quite frequently. It comes up as a question of medical practice. We have been doing work in co-operation with the postoffice department for the last ten years. This kind of work is often assigned to me. I have been called in on cases of this kind from time to time. I am not the author of the kind of urine that is in evidence here. In ordinary practice, a microscopical examination of urine is the method of testing its properties. I always employ that in an examination of urine. There is no doubt whatever but that I can take a bottle of water and a few tea leaves, a little glucose, and give it a microscopic test and tell whether it is urine, or not. A chemical test would reveal the fact that it is or is not urine, also. I do not quite agree entirely with some of the physicians who have testified here. I give as my reason for saying that a chemical test will tell whether or not it is urine is, that there is no other substance that has [181] the same properties that urine has. I could even tell the difference by a chemical test. In the agricultural department, we have a supply of litmus paper. The only purpose to which litmus paper is put in medical work is to determine whether or not a given sub-

(Testimony of L. F. Kebler.)

stance is acid, that is, sour, or alkali. That is all. When a man has dipped litmus paper in urine and forwarded it to a doctor, that of itself does not disclose any information upon which the doctor could intelligently prescribe for the patient.

Q. Why not?

Mr. FAIRALL.—We object to that upon the ground that that alone is not all for the prescribing physician in this case. It does not fairly embody any of the cases that are before the court.

The COURT.—The objection is overruled.

Mr. FAIRALL.—Exception.

A. Lime water, lime juice, lemon juice, orange juice, will all give an acid reaction; vinegar will give an acid reaction. The lye taken from ashes will give an alkaline reaction. There are thousands of substances that will give an acid reaction, and it simply changes the color of the paper from say a blue to a red, with acid, and very red to blue with alkaline; that is all there is to it. There is nothing on the litmus that could be used as a basis for making any diagnosis whatever. I have read the various symptoms of these supposed patients here. I have heard all the testimony in the case. I agree with the opinions of Dr. Tait and Dr. McNutt that sufficient information is not disclosed here to tell what is the matter with these people, or whether there is anything the matter. Amorphous urates and phosphates are uncrystallized bodies. All urine contains phosphates and urates. That to a physician does not mean anything. [182]

(Testimony of L. F. Kebler.)

Cross-examination.

I am a physician. I graduated from the University of Michigan in 1890, and finished my work later on in charge of Washington University, and I have never practiced—I have practiced medicine but not as a regular practitioner. I am a physician and chemist, my work being chemistry chiefly. I practice medicine in Washington, D. C., in the Department of Agriculture. I am one of the physicians that has charge of the cases that come up in the Department of Agriculture. I practice on human beings in the Agricultural Department. These cases arise by accident, smallpox, scarlet fever, and all things of that kind. Occasionally, surgical cases come up. We have some black people down there that are liable to carry smallpox or other epidemic diseases. I have not treated urinary troubles or venereal diseases. That is not in my line. I am an expert on the analysis of urine. That is a chemical analysis, I consider. I speak of urine from a truly scientific standpoint, as a man who is making a chemical and exact analysis of it. My analyses of urine were made for the purpose of determining whether or not the urine is normal or abnormal, not for the purpose of determining its value as a fertilizer, or something of that kind. To ascertain whether it was normal or abnormal, pathologically, in cases of Bright's disease, diabetes, rheumatism, and all things of that character. Physicians do not submit samples of urine to me for a chemical analysis, nor do I ordinarily get them from physicians. I

(Testimony of L. F. Kebler.)

get them from the postoffice department in my capacity as chemist. I do not think there is such a big range between chemists and physicians; I am educated in both schools. I understand there is a difference. In an examination of urine, if there is no sediment there, the microscopic examination cannot be made, as was the case in one of the urines that I examined for the postoffice department, when it was alkaline and had no sediment, [183] and that would lead you to believe immediately that it was not genuine urine. If it was acid or might not have sediment, it yet might be urine. By dropping a few drops of lemon juice in some water, a liquid might be produced which showed no sediment, and which might be assumed to be urine for the purpose of the examination. Litmus paper has no value at all, so far as making any diagnosis is concerned. Litmus is of value in the stomach content. It is quite important to know whether the condition of the stomach is acid or alkaline, whether it may be cancer, if it is one thing; it may be ulcers, if it is another. It has some value there. It has no value in any test which might effect the urine. I can think of none. The same man during the course of twenty-four hours, in absolutely normal health, will pass urine that is alkaline one time and acid another. That is not true of the stomach condition also. The normal stomach is never alkaline, always acid. I have never examined a stomach that was alkaline, pathologically or otherwise. The taking of bicarbonate of soda

(Testimony of L. F. Kebler.)

into the stomach would make an alkaline condition momentarily and overcome the acid. It would have the effect of neutralizing the acid.

Urine has properties which no other liquid has. There is no way of producing any liquid which would carry the same properties as urine, that I know of. I have at the request of the postoffice department tried to put the same properties that are in urine into clean water to imitate urine, but I have been unable to do it. I could not take some of the secretions from the kidneys or other parts of the body and make a urine imitation. Urine has a distinctive *characteristic* odor which everybody that has come in contact with it, recognizes almost immediately. It might vary with the food that is eaten or the liquid that is drank. In the second place, urine has a substance *known urea*, which no other substance [184] can produce. Urea can be produced chemically, but the peculiar odor I have never seen reproduced. Some foods produce a very highly offensive odor in the urine, or some liquid, and others no offensive odor at all. For instance, asparagus causes a sickening-like odor. We cannot reproduce those odors with anything known to chemistry. I think that is impossible, to the chemical world in general.

If I were a physician and prescribing for a patient and the patient sent me what he claimed was a sample of his urine, I would assume it was urine until I had proved it to the contrary by both chemical and

(Testimony of L. F. Kebler.)

microscopical examination. I would always submit it to that examination. I say that by reason of my chemical experience as well as my experience as a physician. My experience as a physician has shown that patients will give plain water instead of urine for examination. I have known that to be done. That is in cases where they had something to gain, like life insurance. But in the ordinary cases of treatment of diseases, I do not find the rule that patients will send you water instead of urine for examination. I would never pronounce a substance urine until I had examined it and found it was urine. I would not act on it as urine. I would not discredit the statement of the patient, but I would always examine it. The examination necessary to determine that it is urine is purely for the examination of the urine. If I was given a sample of urine, I would take the specific gravity, take the odor, smell, it, determine the amount of urea in it. I would test it for the presence of sugar, albumen, test it with a microscope for urates, either precipitated or otherwise oxidated, phosphates, mucous material, epithelia. The microscope will reveal almost everything that I have mentioned here excepting the sugar and the albumen. To test for sugar, we make what we know [185] as a boiling solution, heated up to boiling *to boiling*, and then put in a drop of the urine, and if there is sugar present, there will be a distinct reaction, which is known to us all, characteristic of sugar in the urine. Water with glucose in it would produce that effect, but not with sugar. With sugar,

(Testimony of L. F. Kebler.)

such as they had in one of these samples, that would produce that effect. To discover the specific gravity, I usually use what is called the pycnometer, a little apparatus for that purpose. It is what is known as the pycnometer, or the specific gravity spindle—you just drop it in. That would disclose the specific gravity. The specific gravity of normal healthy urine varies from .1015 to .1024. If some substance is put in water that would raise the specific gravity to that point—glucose might do it, salt would do it. For testing albumen, I would apply the white nitric acid contact test, which consists in putting a small quantity of urine in a test tube, heating it, and then putting a layer of nitric acid under the heated urine; at the point of contact between these two liquids, there will be disclosed a zone or white opalescence, if there is albumen present; if there is a material amount of albumen present, it is only necessary to heat the urine. You can see it with the naked eye. Albumen is a chemical substance which the white of the egg is representative of. Some of the substances that will make albumen are, albumen in eggs, in beans, wheat and potatoes. A little library paste would not produce albumen. That is made of starch, chiefly. That is a substance which does not respond to that albumen test at all. It is albumen of an entirely different type. Library paste has starch in it, and I suppose it has some dextrine in it. It would also have a little mucilage. I have tried it out, and as a matter of fact, it does not produce the condition of albumen. I made that test at Washington, D. C., [186]

(Testimony of L. F. Kebler.)

I did not direct what should be placed in this water. The only substances that I know of that produce actual albumen by putting in water are the white of an egg, the serum from blood. Nothing else will produce it that I know of. There is nothing in the library paste that will give any reaction for albumen in any form. It would have no effect at all, except to change the color, give it the appearance of urine.

I do not think that a man that makes an examination of urine, in good faith, if he were not a skillful man, might be deceived by such a concoction as that. It is possible that a man could be mistaken honestly in it. I will agree with the statement that all physicians are not equally skilled in the treatment of diseases. It is possible, not only possible, but altogether probable, that a man might be honestly mistaken, if he makes an investigation. It is just a possibility that if he lacked the knowledge to make the kind of an investigation necessary, he might be mistaken. Library paste is a secret combination. It does contain dextrine. That is simply heated starch, which sweetens it and makes it sticky. The granules of starch are destroyed, so that they can be recognized no more. That would not produce a sugary condition. It has water and flavoring agent in it, that is about all I know. I made a microscopic examination of it, and chemical, so far as the library paste was concerned, in the making up of this urine. I made a qualitative examination to the extent that I have just indicated. I think I could reproduce the exact library paste if I studied it long enough—not with

(Testimony of L. F. Kebler.)

my present knowledge. The process is secret. I know pretty near what it is. There is no chemical effect in it. There are many things about it that I do not know anything about, because it is a secret process.

Mr. PRESTON.—Q. A man that has spent half a century in curing [187] diseases of the genital organs would ordinarily know how to examine urine, would he not?

A. I should think so. In the process of the examination ordinarily required of urine, whether a man thought it was urine or did not think it was, he would necessarily come into the possession of the information as to whether or not it was urine.

Mr. FAIRALL.—Now, if your Honor please, we desire to make a motion on behalf of the defendant for the purpose of the record. We move that the Court now strike out the testimony upon the ground that they have in no way connected the defendant with the commission of the alleged offense, and that they have not shown nor attempted to show that he sent any of the letters mentioned in the indictment, knew of their being sent, ever heard that they had been sent, or in any way assisted or aided or abetted or encouraged anyone else in sending them, or that he had anything to do with sending them. Upon the further ground that no connection has been made between him and the management of this business, other than the fact that he was an officer of the corporation, that he drew the dividends which came to him as a stockholder of the corporation, and that

(Testimony of L. F. Kebler.)

he had no knowledge whatever of the transaction or manner of the transacting of business; upon the further ground that there has been no attempt to show that he ever saw any of these letters, that he ever handled them, that he ever gave any instructions about sending them that he ever consulted, or that he ever advised or ever knew of their being sent; for that reason, we think the testimony has always failed to connected him with the commission of any offense. I understand it to be the law that a defendant charged as this defendant is charged, not as a part of a conspiracy, but as an individual defendant, in order to connect him with the *perpetuation* of the [188] crime, a state of facts must be shown which proves or at least tends to prove that he not only had the opportunity which counsel has shown or attempted to show with much elaboration here, to commit a crime, but that he actually knew that a crime was being committed; knowledge must be brought home to him of the commission of the crime, or if he did not actually assist in the perpetration of it, it was carried on with his connivance and consent. I think that is a very liberal statement of the law. None of these things in any way, shape, or form have been shown.

The COURT.—The motion will be denied.

Mr. FAIRALL.—I except. We now move upon the same grounds that the case be taken from the jury for the reason that none of these acts have been shown, and there is no evidence which in the slight-

(Testimony of L. F. Kebler.)

est degree tends to support the claim of the prosecution that the defendant was in any way connected with the commission of this offense.

The COURT.—That motion also will be denied.

Mr. FAIRALL.—Exception.

Testimony of A. M. Robinson, for Defendant.

A. M. ROBINSON, called as witness on behalf of the defendant, after being duly sworn, testified as follows: My name is A. M. Robinson. I reside in San Francisco, and have for about seven years. I was connected with the Jordan Museum from 1909, until the time it was closed, as a doorkeeper. I knew Paul Oesting, and the defendant, Dr. Freeman. All the time I was there I knew them. My services ended there when the office closed in January.

The relation at that time between Dr. Freeman and Paul Oesting when I first went there, was friendly, up to some time in 1910. I cannot state the date exactly. Sometimes during the year 1910, they became unfriendly. They did not speak in my presence; I don't know [189] what transpired outside, but there they were absolutely silent. There were no business communications between them and no friendly intercourse in my presence. I would not say they were personal enemies exactly. They simply ignored each other. To my knowledge, they did not meet and discuss business matters. I have seen them both there at the same time in the building, but they did not speak. Sometimes one directed the affairs there, and sometimes the other, whichever happened to be there, whenever there was some-

(Testimony of A. M. Robinson.)

thing to attend to. Generally the doctor directed the medical department. I don't know that Dr. Freeman was directing that—I do not think so. I did not have anything to do with the medical department, nor with the doctors. I got no directions from Dr. Freeman in regard to the medical department. I was a subordinate to the doctors, and when one of the doctors wanted something attended to in my line, he would give me orders; if Dr. Freeman came in, and wanted something done, he would tell me, and Dr. Oesting the same—some trifling thing to attend to, to see that the doctor did the work a little differently.

At the latter part, I had charge of the mail sending it out. The first part, I think the doctor did—I am not positive of that. There was a different doctor there at times—whoever happened to be head doctor of the offices. When the mail came in in the morning or at different times of the day, I took it. I opened it and separated the papers from the business letters, and gave the business letters to the doctor and cashier, and the letters from the patients to the doctor—not Dr. Freeman, but the doctor in charge of the office. Dr. Freeman received his personal mail there, some of it. I do not know whether he did all, or not. He had a private drawer in one of the desks that he put his mail in. I did not open that. I opened all the mail addressed to L. J. [190] Jordan or Paul Allen, and segregated it, but I did not open his personal mail. I do not think he had an office there. He did not occupy any particular

(Testimony of A. M. Robinson.)

room, nor was he there every day. Sometimes he would be there every day for two or three days, and then maybe he would not be there for a week or two weeks, and maybe a month. The stenographer prepared the mail to go out, I believe, and I had nothing to do with it. I did not put it in the postoffice—I had nothing to do with it. I don't know that Dr. Freeman had anything to do with it. He was not there all the time. Dr. Freeman did not see or treat patients, to my knowledge. During all of that time he was just calling in and visiting the place from time to time. I do not know what he did inside, in the way of directing the business. So far as I know there was no direction. I never heard him give instructions to anyone as to what *do* do with the mail of the patients.

The Government inspectors in this matter asked me a few questions. I do not remember whether they asked about Dr. Freeman's connection with the case, or not. I don't believe they did.

Q. Did they ask you whether he gave instructions or was running the business, or not?

Mr. PRESTON.—To which we object as not proper inquiry, and immaterial.

The COURT.—The objection is sustained.

Mr. FAIRALL.—Exception.

Mr. PRESTON.—Q. Were there any other doctors there? A. Than what?

Q. Than Dr. Freeman.

A. Employed there, you mean?

Q. Yes.

(Testimony of A. M. Robinson.)

A. Always. Usually two. They had separate rooms. I went inside occasionally if I had anything to call me there. Sometimes I took in letters, and things of that [191] kind. I had charge of the museum door. I never knew of Dr. Freeman treating the patients or writing a prescription, or anything of that kind during my time there. I never knew of his directing the manner of treatment or the sending of letters to patients, or anything of that kind. I do not know of patients consulting him or being advised by him or anything of that kind. So far as I know, Dr. Freeman simply came there occasionally and went away again, and would sometimes instruct the janitor about keeping the place in order.

Cross-examination.

I was a doorkeeper for the museum and office, generally. When a party would call there and inquire for Dr. Jordan, I would tell him to sit down in the waiting-room—come in and have a seat. If he said, “I want to see Dr. Jordan,” I would say, “Come right in and take a chair.” Then I would report to the doctors that there was a patient that wanted to see them. I reported usually to the senior doctor; if he happened to be busy, sometime the other one. When patients would come in and say they wanted to see Dr. Jordan, then I would go and tell the oldest doctor about it, the senior one. If he was busy, the other one. That is all I had to do—that was the end of my responsibility. Very few of them asked for Dr. Jordan, but sometimes they did.

(Testimony of A. M. Robinson.)

I can see the outside of the consultation rooms from where my seat was. As to the reception room, the door was closed and I could not see anything. Dr. Freeman had desk room and a drawer in the desk there. That was in one of the consultation offices. When he wanted to sit down and spend some time there, there was an unoccupied room there, and he usually sat in that. There were four offices in a bunch; one consultation room is in one corner, and the other is in the other corner, and the unoccupied [192] room was situated like that (illustrating). In the unoccupied room, there was a small table and two or three chairs. You might say that he had an office there, but I would not call it an office myself. He had no desk, just a little round table. He would take his mail out of the consultation room usually and take it in there, when I observed him. There was no other method of approach to the place from the outside, except the door where I stood. When the doctor would come in, I would always know that he was there. I would see him going out. He did not necessarily have to go through the reception room. He could come through the museum entrance if he cared to. He would not necessarily have to go through where the bookkeeper or cashier were stationed, nor would he necessarily have to go through the other rooms, the consultation room. If he went through the museum, he could go that way and get into his room without going into there. I do not think I mailed over half a dozen letters in five years. If the doctor wanted to write a letter, Dr.

(Testimony of A. M. Robinson.)

Freeman, I suppose the stenographer would write it for him, but I don't know. I cannot remember that I ever saw him sit at the desk where the stenographer was. I do not know that mail went out that was written by Dr. Freeman. Sometimes mail came in there addressed to Dr. Freeman. I always knew when they were having the annual meeting of the board of directors. I was not in there. I was outside in another room. I would not know what was going on in there, but I would know they were in there. I do not know whether they held special meetings, or not. I was not on confidential terms with Dr. Freeman at all. I do not remember that he took me out to see Mr. White in regard to seeing a patient who had paid the institution \$5,000, and I do not remember that I took messages from Dr. Freeman to Mr. White in regard to a patient there. I do not know that there was a consultation in which Dr. Freeman took [193] part in regard to the case of a man by the name of Murray. I do not know anything about the Murray case, known on the books as J. W. Wilson. I never heard of the case of J. W. Wilson before. I never heard of the case of Frank Murray. We had a Murray patient there, and it might have been him. I had nothing to do with the \$5,000 man, the money end of it, and I do not know anything about it. I do not know the patient to whom you refer. I heard of a patient by the name of Murray that we had, R. W. Murray. I think he lived in the city. He was a patient there for a good many months. I could not state. I do not know

(Testimony of A. M. Robinson.)

that there was any difficulty about his case in which there was a consultation held.

I do not know as a matter of fact that he was in consultation with the other doctors with regard to this man Murray. I know that he refunded \$150 to a patient. That was the case of Charles Mongetti. I did not talk to the doctor about that, but I heard it spoken about by a good many. Dr. Freeman, to my knowledge, had no other offices than this one. He lived at various places, at the Jefferson Hotel a while and then the Bellevue. He has a wife and son, I believe. I was there from 1909 up to the time the place was closed. There was very little difference between the activities of the doctor at this place in the early part of the period, and the later years, about the same. In 1910, Dr. Freeman and Mr. Oesting were enemies—it might have been even 1909, I could not say. I don't know as they are friendly yet. They speak now, though. They began to speak, to my knowledge, last year—something like that. I don't think they were enemies—they simply did not speak, but why, I do not know. I never heard one of them abuse the other and I never heard of any trouble between them at any time.

I said a while ago that I sometimes took orders from Dr. Freeman and sometimes from other people. That is true. Dr. Freeman [194] would sometimes say there is too much draught, and sometimes too much light, or something of that kind. He had partitions removed or put in. The partition ran up half-way and he had it extended to the ceiling, so as

(Testimony of A. M. Robinson.)

to stop the draught. That was the draught into the offices generally—they got it all over. That is about all he had changed around the place. None of the wax figures were taken out and others put in. I never discussed business with him, but very rarely. I discussed with him whether I had many inquiries or few inquiries. It depended upon whether they had few or many; if it had been increasing, I would tell him business was looking fine; if it was falling off, they were not doing so well. He hired me and the bookkeeper paid me. I was always paid in cash. He told me what he wanted me for, as a doorkeeper. He did not tell me what to do with the patients that came in and asked for Dr. Jordan. I turned them over to the doctors in charge and said, “Here, take this man,” and so on. I took my instructions from the doctors. He told me what to say about Dr. Jordan. Practically, he said, “This institution is a corporation, incorporated by Dr. Jordan, and we are all supposed to represent the firm. We are Dr. Jordan, if necessary. If a patient comes in and asks for Jordan, give him a seat.” He did not tell me to get the money—that was the point. Dr. Freeman was not present when this doctor was leading me into the light of the situation. I think he remained inside while the instructions were being received, but I don’t remember just where he was. He was not in sight, but he might have been within hearing. I do not mean to convey the impression here that Dr. Freeman did not know what was going on in that place. I don’t know that he knew—I don’t know

(Testimony of A. M. Robinson.)

whether he did or not. I suppose he would.

I do not think Oesting was a doctor. I never heard so. I [195] never pointed him out as Dr. Jordan to anyone, nor did I ever pose myself as Dr. Jordan. I did not always carry out the admonition given to me that we were all to be Dr. Jordan. No one claimed to be Dr. Jordan who was not a doctor—who had not a license to practice. I never pointed out Dr. Freeman and Dr. Jordan.

Mr. PRESTON.—Q. I will ask you if you do not remember about two years ago two patients suffering from gonorrhoea, one from San Francisco, one from San Mateo, coming up there on Sunday and being treated by Dr. Freeman himself?

A. No, I don't know whether the patient was suffering from gonorrhoea, or not. I do not know of any patients that were examined or treated by him on Sunday. I do not know of his ever having examined one. When I told the doctor that business was good, he said, "Fine," and when I said it was bad or a little off, he would say, "The sun will shine just as bright." There was nothing else he would say commenting on the business, that I know of.

Redirect Examination.

I do not know anything about the annual meetings of the corporation, nor about the monthly meetings. I do not know anything about a witness who testified here that he kept the books of the corporation and fixed the dividend, and wrote up the minutes and passed them to Dr. Freeman as secretary, to sign. I had nothing to do with the inside of the business.

(Testimony of A. M. Robinson.)

So far as I could see, Dr. Freeman had nothing to do with the treatment of patients, or the handling of the mail matter. I would say that Oesting took a more active interest in the business. He was not there all of the time. Sometimes he would be away for a week. When he was there, he took a great interest in it. He did not consult Dr. Freeman, as far as I know, about the management of the business, because they did not speak. I do not know that they wrote letters to each other at that [196] time.

A JUROR.—Who are the directors of this corporation?

Mr. PRESTON.—Dr. Freeman, Mrs. Freeman, Paul Oesting, and Baker had one share, and afterwards Bechtold; as I recall it, the corporation first had three directors and then four.

The COURT.—You say you opened up the mail. Who was Paul Allen?

A. That was a private address. Lots of times patients in small towns writing did not care to have anybody know, the postmaster knew generally, that they were consulting doctors, treating with doctors.

Q. Paul Allen was just a name?

A. Just a name.

Q. G. M. Freeman had 49,900 shares. A. V. Freeman, 100 shares; E. P. Baker, 1 share; B. Bechtold, 49,998; and Paul Oesting, 1 share. The directors, as I understand it, were Paul Oesting, G. M. Freeman, Addie V. Freeman, and Edward P. Baker, four directors.

I do not know who Bechtold was. I never saw or

(Testimony of A. M. Robinson.)

heard him around there, that I know of. We called that spare room the new patients' room—sometimes new patients would come in and they would sit down in there. Dr. Freeman would occupy that while he was there, because usually the other places were occupied. They would not take new patients in there when Dr. Freeman was in there.

Testimony of G. M. Freeman, in His Own Behalf.

G. M. FREEMAN, the defendant, called in his own behalf, after being duly sworn, testified as follows:

My full name is Gideon M. Freeman. I am the defendant. The other men indicted at the same time I was are Dr. Rice and Dr. Burns. They subsequently pleaded guilty and were punished. I was born in North Carolina in 1849. I was educated at Lake Forest College, in North Carolina. I was a soldier during the Civil War. I graduated in medicine in 1873, and came to this state in 1875, and have been here about forty years. I first went to Fresno, second to Visalia, and third [197] in Amador County, and was married there. I was married in Amador County, near Ione. I have been in San Francisco, I guess, for thirty years. It has been so long I have forgotten—something like thirty years, thirty or thirty-five years. I have practiced medicine about thirty or forty years. I am a member of the city and county medical society and the State Medical Society now, as far as I know. I was in general practice in the country, a surgeon, mostly,

(Testimony of G. M. Freeman.)

in the mines, while I was in Amador County. I practiced a long while alone.

Q. When did you buy an interest in this Jordan Museum?

A. About fifteen or sixteen years ago. I am not now in active practice. I have not been practicing medicine for about ten years. I began to retire about the time the fire came, and then absolutely a year or two after. I have never practiced since then, I have not had one single case since then that I can remember of. I have not prescribed for patients, examined patients or consulted with them. During that time I did not have any duties in connection with the Jordan Museum except that of secretary. I paid no attention to the business. Everything was brought to me and passed on, and I would sign anything that was brought up, nothing more. About seven years ago, Paul Oesting and myself had a little friction, and just drifted apart, that is all. I do not think there is any enmity between us, not direct—not serious on my part. I did not fight. We never spoke, that was all—just passed along. During that time, Mr. Oesting mostly had the business. I did not have the slightest thing to do with the management. I did not employ the doctors. I could have done that, but I did not employ any. I feel that I could have employed them by reason of the fact that I owned stock in it. I was allowed that privilege, I think, in some way—I don't know—I know there was something said there about that, but I never exercised the privilege.

(Testimony of G. M. Freeman.)

In a general way, I [198] knew about the manner of the business, but not as to the details I never inquired particularly as to the details, beyond saying, "Well, how are things to-day?" and pass along. I went there occasionally sometimes every day or two, and would stay five or ten minutes, see if there was any mail. Sometimes I would go away and stay a month, maybe a week or two weeks, as the case might be. It was not necessary for me to be there. When I speak of mail, I mean my personal mail. I had some of my personal mail brought there. It was not mail in relation to the medical business or treatment of patients. My own personal matters, friendship letters. That was the place where I got my mail. I did not open the mail or have anything to do with the mail of the business. I never directed the kind of letters, or knew anything about the character of letters that were being sent out. I never examined the form letters that have been spoken of here. I know more about them now than I ever knew before. I never had examined them. I have not read them. I have just heard them read. I never directed the sending of any such letters to anyone. I did not know that they were sent out, letters of that character. At any time, I was not cognizant of the fact that these letters such as have been used here and shown here were being sent to people throughout the state by means of the mail. The doctors who were employed there did not consult me about the treatment of patients or what they should do.

(Testimony of G. M. Freeman.)

There were no monthly meetings. It would go by a month or so, and then they would bring this written page to me and I signed it, but never regularly. There were no meetings held at all. The bookkeeper would simply enter in the minutes, or what purported to be the minutes, the fact that a certain dividend was declared, and I would sign it a month later, maybe two months, maybe three months. I would sign two or three together—maybe more or less. I never dreamed that I was committing fraud upon anyone by being connected with that institution. I was in good faith there. It had been [199] established in 1870 or 1875, and I never dreamed there was anything wrong. I did not have any knowledge that anyone was committing anything wrong. I never entered into any plan or scheme or device with anyone for the purpose of defrauding anyone, in the treatment of the sick or the afflicted. I never entered into any scheme for that purpose under the guise of the Jordan Museum of Anatomy or anything of that kind. I did not go into that business for the purpose of deceiving the public or defrauding it. The Jordan Museum of Anatomy was a regular museum with wax figures and invited people to visit it. An admission was charged, which was collected at the door. They published a book at that time. During all of these years, it seemed to me one of the places of interest in San Francisco. This is the book that Dr. Jordan prepared. As far as I know, it was prepared in the museum when the museum came. It was just re-

(Testimony of G. M. Freeman.)

published—I guess it is the same thing. I had it reprinted. That is the same little book. No one previous to this time ever took any offense at that or said that they were being defrauded by reason of it. That was sold at the book stores as well, and, if I remember right, that was passed upon afterwards by the postal authorities.

The book published and circulated by the Jordan Museum people at that time described in a medical way the effects of self-abuse and syphilis and other diseases, and besides, we had these figures of wax in the museum illustrating it. It had a catalog at the end of each piece describing what it was, and people coming there and viewing these wax figures saw the effects of disease upon the human system.

In those times, there were doctors who were connected with the institution who treated the diseases. Dr. Jordan was not one of them in those days, but Dr. Hastings was. Dr. Jordan brought this [200] museum from Australia about seventy-five or eighty years ago, and then Dr. Jordan sold it to the Dr. Hastings Estate, and Dr. Hastings finally died.

Q. Dr. Freeman, you do not mean that Dr. Jordan exhibited it in San Francisco seventy-five or eighty years ago. You are mistaken in the number of years?

A. Well, pretty close. It might have been seventy, but it was away down on Montgomery street.

Q. You know California was not settled in 1848?

A. Hardly settled—it might have been sixty or

(Testimony of G. M. Freeman.)

sixty-five years ago. Then it was afterwards purchased by Dr. Hastings, one of the best surgeons here at that time. Hastings died, and then a gentleman had it in charge; that is the way it was when I got it. Oesting was in first; I bought a one-third interest in it, and paid \$10,000. The place was at that time valued at \$30,000.

In connection with the treatment of the diseases, the exhibition of these figures, there were doctors, and I was one of them at that time who treated patients who called at the office. I guess I was connected with the treatment of diseases about four or five years. I was actively engaged for four or five years, and better work I never did in my profession than while I was there. I made a great effort, and was as conscientious as could be with my patients. I made a conscientious endeavor to treat patients honestly and fairly and give them the best skill that I had. I did just the same as I did when I was in general practice, absolutely. During the time I was there, I do not think any of these form letters were used. I have tried to think it over, but I have never heard of one until I saw that there. I never used them. I did not have anything to do with the making up of them, nor did I advise anyone as to how they should be constructed or what should be said in them, or in the use of them in any way, shape or manner. [201] Those things grew up in that business after I retired. I heard of them in a general way, but I thought they were always to be used when we had an incompetent stenographer.

(Testimony of G. M. Freeman.)

I never knew they were to be used regularly. If anybody had told me that the letters were used that were here yesterday, I would have surely told them that it was not true, for I never knew that such letters were written; I thought that the stenographer did he work himself. I thought the doctor dictated the matter to the stenographer, who wrote the letters. I never in my life treated a patient by mail, and said that I had examined the urine, when I had not, or said that his condition was one thing, when I believed it to be another, or say that he was sick when I knew that he was well. In both a general and special practice, you have no idea of the number of men who need mental treatment as well as physical, and unless you treat the mind, you cannot cure them. I would first diagnose a case to find out what was wrong. As a rule there is always something wrong with them mentally, and you treat them, not as real diseases, but you get the results in curing the patient. That is very important, and at least one-half to two-thirds the people we treat are affected that way. That is especially true of these diseases of impotency, but in all diseases. I have been practicing a good while. In order to assist your patient, you have to frequently encourage him with the belief that certain things would do him good. Imaginary medicine is often as effective as the real medicine in a case that is not serious. I don't remember of blanks that were there sent out for patients to sign, showing their symptoms and so forth. I do not remember whether that was done,

(Testimony of G. M. Freeman.)

or not. During my time, a very small proportion of the cases came by mail. Very few cases were taken that were really mail cases; you understand what I mean—they would write by mail, but they would come to the [202] office and be examined, a large majority. After they wrote, I would ask them, if possible, to come to the office, but I never sent out any blanks for urine, or things of that kind, that I can remember of. I did not do that myself, and I never knew of that being done at that time. After the fire, the practice changed from what it was altogether. At that time, I was not actively engaged. I got lazy, and did not work and could not work. After the fire, I organized the corporation, and it was after that this practice must have grown up in the business. I never at any time claimed that Dr. Jordan was alive. That has been discussed, my method, and I have felt that everybody's was, that if a patient came in, they would tell them that the doctor was there, to sit down. If they said they would like to see Dr. Jordan, and made any intimation of that kind, I would say, "Dr. Jordan has been dead many, many years, but we are better prepared to treat you than Dr. Jordan was." That is the rule that I always followed. I never told them I was Dr. Jordan, and I never posed as Dr. Jordan, and never had my photograph taken as Dr. Jordan, never signed my name as Dr. Jordan during all of my practice, and never represented to anyone that I was Dr. Jordan. I told any one who asked about

(Testimony of G. M. Freeman.)

Dr. Jordan that he had been dead a great many years.

I never at any time in substance or effect, during my connection with that place, stated to any person with intent to defraud them, or with any other intent, irrespective of symptoms communicated to me, that the symptoms indicated diseases without any real knowledge of the condition of the person who was afflicted with the disease which I said I could cure. I never made any such representations, nor was any such representation made with my knowledge or consent or connivance. I never [203] assisted or aided in any way to carry on or conduct any such transaction. I never by means of letters placed in the postoffice induced, or attempted to induce any person communicating with Dr. Jordan to give me a large sum of money for medical treatment. I never led him to believe I would treat him skillfully when in fact, I did not intend to treat him skillfully. In other words, I have always in my practice of medicine in that museum and other places, endeavored to treat everybody in the most skillful manner that I knew how, too much so, for my own good, because I was too much interested in my cases always, because I felt when they were sick they needed all the assistance I could give them. I have done that in all my practice up to ten years ago since I have practiced. That is true wherever I practice. I did not fraudulently or at all convert any money sent to me for medicines; never sent a patient knowingly medicines of little or no value;

(Testimony of G. M. Freeman.)

never sent them medicines that were not, in my judgment, the medicines which should be sent for the treatment of that particular disease; never sent them medicines for their treatment when I knew they were not suffering from anything, in order to get their money; never sent them medicines and got money from the persons named here, or any other person, with the knowledge or belief that they were incapable of benefiting the persons.

Cross-examination.

This book purports to be written by Dr. L. J. Jordan and it is even signed here in places by Dr. L. J. Jordan. This book was not circulated by me or by the concern of which I was a member, for the purpose of creating the impression that Dr. L. J. Jordan had written this book and was sending it out. This is circulated as the 47th edition of the book, and it is signed by [204] Dr. L. J. Jordan. You might consider that it talks about what I have done in my cases, and all that, as though it was circulated and taking place at the present time, and was now a current production of a man actively engaged in the practice of the profession. That book was not constructed with a view to lead to the belief that it was issued by a man then living. I never saw Dr. Jordan. I never saw anybody who did see him. I do not know that there was such a man. I was not here seventy-five years ago. I changed it to sixty or sixty-five years ago. I could not tell you the man, woman or child that is living, or that ever did live, that knows there was a Dr. Jordan.

(Testimony of G. M. Freeman.)

Who told me there was a Dr. Jordan, is a question I could not answer. I do not think I testified here that this was the production of Dr. Jordan. I said the book was handed down from the Jordan Museum. That is all I know about it. I do not think I testified that this was the product of Dr. Jordan. I do not know who wrote it. I do not think anybody ever told me who wrote it. I do not think anybody ever gave me any information as to who the author of that document was. This is more than thirty years old. I think it is ancient. I did not write the book. I think I should know something about spermatorrhoea.

Q. Tell us then.

Mr. FAIRALL.—We object to that, as he has not testified as an expert. It seems to me it is not proper cross-examination.

The COURT.—Objection overruled.

Mr. FAIRALL.—Exception.

A. Spermatorrhoea is a condition, a disease, usually of the prostate gland. It has to do with the seminal fluid to a degree. Spermatorrhoea is a loss of the seminal fluid in the urine, not necessarily in the urine—ejaculation; also wasting it through [205] the bowels.

Q. What do you do for a man when you want to cure him of that trouble, ejaculating too quick?

Mr. FAIRALL.—I object to that as not proper cross-examination.

A. I am not practicing now.

Mr. PRESTON.—Q. I am talking about the

(Testimony of G. M. Freeman.)

method before the fire on this question.

The COURT.—The objection will be overruled.

Mr. FAIRALL.—Exception.

A. Largely by the mind. The patient is usually absent. You would prescribe medicine for him. If you have got a bad prostate gland you treat the gland and relieve that of congestion. You pat him on the back and give him medicine to take, treat him for the mind condition. You will give him strychnine in some form, that is a very good remedy, and tie a towel around with a big knot in the back, and don't let him lie on his back, so he will not lose semen. I do not say there is nothing the matter with him. It is a very serious thing. I was not talking about treating a man when the trouble existed in his mind. There is no established treatment for a man who believes there is something the matter with him when there is not. The physician must use his judgment. In such cases, we usually furnish medicines, harmless as a rule. I do not know anything about red pills.

Q. What kind of medicines do you prescribe in cases when you want to make the patient believe he is being treated when he needs no treatment?

A. Tone up the nervous system, make the blood richer, use a good deal of caution about the bowels, improve the body in a general way, and then they will naturally improve. [206]

We had a microscope in the institution like the picture in this book. Had it there for fifteen years. It was kept in my office when I was practicing there. I

(Testimony of G. M. Freeman.)

am not keeping any office now. Some—the physicians brought their own instruments, but I don't remember where they were. The museum as such had no such instruments as these. Belonging to the institution itself, there was no microscope. I do not know the real date that I went into this institution. I had my office then at 1051 Market Street. I had no other office at that time, because I had all I could do there, as long as I was practicing, after I went into this institution. I kept no other office, except when they moved the museum. I kept no office other than that, in San Francisco, except for a few months after the fire, during the reconstruction period, then we had another office. When I first went into this institution, my partner was Mr. Oesting. There were no other partners. I owned a one-third interest. I bought the other partner out, you see. There was another party in it. There were three in it, and I bought him out. The third man was a man by the name of Du Boice, and he is long since dead. I acquired his interest after the fire. I increased my holdings in this institution after the fire, that is, I absorbed one-half of the third man's interest, and Mr. Oesting absorbed the other half, and we two were the real or sole owners. When we came to incorporate, we used the names of three people as a corporation, who were really used for purposes of organization. The reason we used the name of Dr. L. J. Jordan in incorporating was it was a good name to incorporate, as the Emporium would be a good name to incorporate under, and L. J. Jordan having been

(Testimony of G. M. Freeman.)

known for a long, long while, why should we not incorporate under that name? Before the incorporation of [207] this institution, the mail went out under the name of L. J. Jordan each letter that we wrote. While I was in active practice, I never wrote a letter at that place in my life. I never signed a letter. That was the stenographer. He wrote the letters. I never did the signing. The stenographer sent the mail out, when I was practicing, signing Dr. L. J. Jordan. I do not think I signed any of the checks on the bank at that time. The checks were written out and signed, but I don't think I signed them, to the best of my memory. I saw two checks where I had signed the name of L. J. Jordan. I had the privilege of signing the checks. At the time I went into this institution, I was the only doctor in it. I was an owner. I was really the only man that was connected with the institution as an owner that had a physician's license. The licenses for running this institution from the time I went into it until it was closed were issued in the name of G. M. Freeman. During the years that Mr. Oesting and myself were not on speaking terms, the name was still used in the same way. We never changed it. I retired from this practice almost abruptly. I was simply tired and old, and I retired. I was over fifty or fifty-one years old, ten years ago. I am sixty-six now, and was fifty-six years old then. I was in fairly good health. I am still in a fairly good state of health. I have been a hard worker all my life. I retired at the age of about fifty-six.

(Testimony of G. M. Freeman.)

What I said about being in active practice for about thirty or thirty-five years in California needs ten years deduction. That is what I told the judge, that we would have to subtract that. I took that off when I was telling him how long I practiced. I did not treat any patient after the fire. I have treated patients for sexual weakness, a great many.

Q. That was a great part of your business?

A. And functional. [208] I heard the symptom blank read here of a man eighty years old. I would not say he needed treatment, but he had it in his mind, just the same, and treatment would give him more satisfaction than anything you ever heard of. He has got to die, but you would make him happy while he lived. He has not got long to hope.

Q. Do you think that a man in a chronic state of sexual debility, having lost entirely the power of erection, important—in other words, in a chronic state eighty years old, was susceptible of cure by the Jordan Museum of Anatomy?

A. He may not have been susceptible of cure, and I think he was not, but he was susceptible of being made comfortable and happy.

The COURT.—Let us have that first letter of the eighty year old man.

Mr. PRESTON.—This is it: "Sometime since on your request I mailed you a copy of my book, 'The Philosophy of Marriage,' which I trust you have received and read with care. I presume you are suffering from some ailment you do not understand, and from which you desire relief. I am sure you wish to

(Testimony of G. M. Freeman.)

make a name for yourself; you do not want to be a failure before your time; you wish vigor and stamina in order to overcome the difficulties you meet in the battle of existence. To do this, you must not be handicapped by weak organs. You must be strong in the loins and gird them up, as directed in the Good Book."

Q. Now, is that the way to pat the old man on the back? A. You couldn't do it that way.

Q. What do you think would be the effect on the old man if he read that letter?

A. It is hard to tell what his temperament was.

Q. Suppose he has the ordinary 80 year old temperament? [209]

A. Well, some of them might take it as fine; it is remarkable how these people are.

The COURT.—Take a 20 year old boy to whom the same letter was sent.

Mr. PRESTON.—We have the same letter written to a 20 year old boy.

A. Understand, I do not sanction these letters, I knew nothing about them. I do not think you would call them fraudulent. You might do it. If there was any fraud carried on, I knew nothing about it. I would very rarely ask how the business was getting along. I came there to get my letters, get my dividends, as I would do at any place. I thought the business that was being carried on there was a good, straight business, as I used to carry it on. I was there off and on, not practically every day. Years ago I hired at least part of the men. I do not think

(Testimony of G. M. Freeman.)

I employed Mr. White. Mr. Robinson usually employed the janitor. I think I employed Mr. Robinson. I do not think there were any instructions such as that I turned him over to the doctor and told him, "Here, instruct him how to run this business." It is not a fact I told him, when people inquired "I am the doctor." I told you a few minutes ago I would say if they inquired for the doctor, I would say, "I was the doctor," if they inquired for Dr. Jordan, I would say, "I am the doctor." If they wanted to know, "Are you Dr. Jordan?" or ask any other question, I said "No, the doctor has been dead many years." I said, "I am the doctor." Some people might draw the natural inference, and some might not, that I was Dr. Jordan. You might consider it susceptible of that construction, that I was Dr. Jordan, but I do not know how a man would think about it. I say you might consider it that way. I said, "I am the doctor," and if he asked for Dr. Jordan, I said, "Dr. Jordan has been dead for many years." It was not necessary for me to say, "I am Dr. Freeman, looking after the business [210] here." It is not a fact that the name of Dr. L. J. Jordan was used for the purpose and for the only purpose and the sole purpose of deceiving people who came there and making them believe they had a doctor of fifty years' standing. This letter-head was gotten out because it was a corporation. I do not remember whether there was a letter-head like that when I was there. I have seen this letter-head. I don't think they were used before the fire. I did not use them in

(Testimony of G. M. Freeman.)

writing my own letters. My own private letters I wrote myself at my hotel in longhand.

Q. Here is "Jordan's Museum of Anatomy. Established fifty years. Diseases of Men. Private address Paul Allen, 986 Market Street." You have up here in the left-hand corner "Office of Dr. L. J. Jordan, 986 Market street." A. Yes.

Q. You know that that is a falsehood on its face, don't you?

A. You might call it that. But I have always considered it like the Emporium, a large store down here, and other firms, like lawyers and doctors, operating under a name.

I knew that "Office of Dr. L. J. Jordan, 986 Market Street, opposite Sixth; Hours 9 A. M. to 5 P. M. and 7 to 9 P. M., Sundays 10 to 12 A. M." was on the literature. I have known it a long time.

Q. Then if you knew that this kind of letter-head was going out, why didn't you stop it?

A. Well, I just told you—I don't know how to answer you, so I will say I don't know. I do not think I had the power. I knew that there were people working for this corporation that were busy sending out mail. I knew that.

Q. You knew that this concern was advertising, did you not?

Mr. FAIRALL.—We object to that upon the ground that there is no evidence that they were advertising or sending out mail.

The COURT.—The objection will be overruled.

Mr. FAIRALL.—Exception.

(Testimony of G. M. Freeman.)

A. Yes, I have seen mail delivered there daily. I did not know [211] that samples of urine were coming in from the four quarters of the earth. I knew there were some that came. I did not know that tests for alleged diseases of the genital organs were being furnished by the mail system.

Q. You knew it was going on?

A. Very few. I do not believe that 30% of the business or the money that we were collecting every month came from this source. I think the patients that were received through the mail did not amount to probably more than 6%; I do not believe that. I did not say I knew it. I do not believe it. I do not know. I base my opinion on the fact that the most of the matter that was done was written to patients who had been to the office and had been treated there; that is where the most of the mail came from; very few, comparatively very few new patients were taken by mail. I don't know but I think Mr. Burns, the stenographer, will bear me out, that people that you wrote to would come in, and there might be 30%, but I don't think the patients taken through the mail entirely would amount to more than 6%. I honestly believe that. I do not know anything about blood examinations and never did. I never made any microscopical examinations of urine in that place. I could not say that the institution was not equipped for the purpose of making a microscopical examination of urine, because some of the doctors had a microscope for doing their work there. Some of those doctors got more than \$100 a month, and they

(Testimony of G. M. Freeman.)

had a commission, too. They were getting a commission of maybe 10%. I never knew a man's salary in that place. I never knew what Mr. Burns got and I never knew what Mr. Robinson got. I did not know what deductions were made or were being made from the gross receipts. I did not know what was being paid for help or for the doctors. I did not go there for my mail every morning. I came up there maybe in a week or maybe two or three days, I would be passing by. Part of the [212] time Oesting signed checks for my part of the money, and part of the time I did. The checks were already made out for me, so I had nothing to do with them at all. When a deficit was reported, I did not know whether it was correct or incorrect.

I had no other business whatever. I spent my time at a little chicken ranch down here—I go down there sometimes. It is a perfect pleasure. I go down there and spend a little time. I never treated a patient by the name of Baker who came up from San Mateo on Sunday to see me. I do not remember any such case. I do not remember this man Murray that has been spoken of. I did not hear this Italian man mentioned. About giving him a check for \$150, they say I did, but I do not remember that. If I did, it would be something out of the ordinary, and I would remember it, but I don't remember it.

Q. What part of this business here, this Jordan institution, interested you—what part of it appealed to you?

A. What appeals to a man when he quits business

(Testimony of G. M. Freeman.)

and has retired and is doing nothing—that is the part of it appealed to me.

Q. The income you mean?

A. I was dependent upon the income.

Q. The evidence here shows that as early as 1909, the same stock letters were being sent out to me indiscriminately all over the country. Do you think that could take place right under your nose, and you not know anything about it?

A. I think so, because as far as the medical part was concerned, I never paid any attention to it.

Q. There are annual stockholders' meetings and directors' meetings here, where reports of the business of the institution are supposed to have been had. Did you have any such report?

A. At the annual meeting—once a year we had the stockholders' meeting. I had reports, I think, in a very indefinite way. The books were locked up all the time. I think the books were present [213] when we had annual meetings. I don't know what books they had because I never paid any attention. I do not know what became of the books of the corporation. I think there was a day-book. I have seen it. I think I have looked in it. I do not remember what kind of data there was in it. There was a card system with a cabinet to file the cards in. The kind of data on it was everything pertaining to a patient, his disease and so on. They were kept in a little case. I had access to the room where that was. I sometimes passed through there. I do not remember a card system about prospective patients,

(Testimony of G. M. Freeman.)

patients who had not yet begun to take treatment. The card you show me here, I imagine was kept by the stenographer. I don't think anybody saw that but him. It was kept in a little box about that long and about that wide. I know there was a little card kept by the typewriter, but I don't think anybody ever looked at it. I do not know that that was a card system used to store information in regard to prospective patients who had not yet taken treatment. It was for the personal use of the stenographer. Burns was employed there to write letters, all kinds of letters. If I would ask him to write a letter, he would do it for me. After the indictment was found in this case, I never sent out one of the same letters from the institution. I did not know they were being sent out. I never knew that letters of that character were in my life. I first learned that there were letters of this character in this institution when they were read to me right here. I never dreamed of them before. I thought the stenographer wrote his own letters; I have copies of this same file. I turned over to you this file of papers, but I never read it. Indicted, about to come to trial, with these papers in my possession, I never read them, nor ever commented upon them. No one commented on them in my presence. I did not know that these letters had been sent out. I found out [214] that the institution possessed such letters when you were reading them.

Q. Don't you know as a matter of fact, Doctor, that you ordered Mr. Burns here to send to your son

(Testimony of G. M. Freeman.)

in Los Angeles a copy or a duplicate of each of those letters?

A. I did, and I wanted to explain that yesterday. I talked with Mr. Burns, and I saw he was a bright letter writer, and I wanted him to write a letter out of his own mind and send it down there, so that my son might see it, because I thought he was brilliant, and I thought they were his own emanation, and I never went over these letters to find that out. I had in mind that he was a bright fellow. I had never read a letter of his. He had written so much, and I thought he was—you know, I never believed that Burns was guilty. I could not believe that he was. I did not pay his fine here. It was not paid out of funds of the institution. They had him scared. He was persecuted, as I say, I had an attorney, and he led me to the brink of pleading guilty; I realized it, and we went to a place here at night, and I told that attorney and his wife, "I will die of rot before I do it, but I am not guilty, and I will not lie to be cleared." "Why", he says, "It is the easiest way out of it. They will persecute you the balance of your life." He says, "They will break you. You won't have a dollar left in the world unless you plead guilty," and I refused. I ran one morning—I did not know Judge Fairall at that time, but I had heard of him—I went to one lawyer and another, and they would say, the whole business, to plead guilty. I said, "Burns did not do it." I told Burns, "I will take you to my lawyer." This is after I found Judge Fairall, and he told me not to plead guilty, I

(Testimony of G. M. Freeman.)

would be guilty—I never was in a law court before in my life, I have led an honorable, upright life, and I believe from my heart that I have been persecuted; by whom, I don't know. So my lawyer left me, or I left him, and I told him— [215] I did not pay his fine. It was not paid out of the business. I was never acquainted with Williams until Choynski turned me over to him. They never got a dollar of it from me. I do not think the firm paid the attorneys for Burns and Rice. It was for ourselves, Paul and I. Paul has never been indicted.

Q. Don't you know that Burns and Rice were included in this very proposition?

A. Possibly they were. Will you let me explain?

Mr. FAIRALL.—Go on and explain.

A. We never employed Williams; we employed Colonel Choynski; he was an old friend of ours. I was never acquainted with Mr. Williams, and the first I knew he sent us a bill of \$500, and the firm paid that, and then Choynski was going away, and finally I said to Mr. Williams, "I don't know what I am going to do. I do not believe that you are helping me any." And "Why," he says, "Don't you want to protect another?" I said, "My wife is just as dear to me as anybody else in the world and I have got to protect myself." Then I went to Mr. Burns and I said to Mr. Burns, "Don't plead guilty, I will take you to my lawyer."

These signatures here are mine. This signature card has my signature on it. I signed the check of the institution by agreement between Mr. Oesting

(Testimony of G. M. Freeman.)

and myself. I do not know how long that agreement has been in existence, since we have been in business together, during all the time we were in business together. This agreement was that we should both draw on the bank. I never exercised that privileged except in a rare instance. I could draw and Paul could draw. We each enjoyed equal power in that respect. Mr. Oesting was a little more active in the business than I was. He attended to the business more closely than I did. He was not a physician. He is a druggist.

Q. Did I understand you to mean that in this institution being carried on by you there, you were treating people who had no trouble as well as people who did?

A. I never did. I never [216] intentionally said or meant that I treated people who believed they had trouble when they did not have. I said such cases might be true and they might be benefitted. I have treated some years ago. I have treated one since the Jordan Museum was established.

Redirect Examination.

Mr. FAIRALL.—Q. The district attorney asked you yesterday if you ever knew of anyone who said that he knew Dr. Jordan. Now, do you know of anyone who ever said to you that you knew Dr. Jordan?

A. Yes. Judge Seawell. In the trial of the case up there involving the same case, he said when he dismissed the case, "I knew Dr. Jordan." He said that he knew Dr. Jordan.

Mr. PRESTON.—Q. Did he claim to know Dr.

(Testimony of G. M. Freeman.)

Jordan or someone else?

A. That is all he said.

Charge to the Jury.

The COURT.—Defendant has been indicted for using the mails in furtherance of a scheme to defraud. The substance of the statute under which he is charged is as follows:

“Whoever, having devised or intending to devise any scheme or artifice to defraud, or for obtaining money or property by means of false or fraudulent pretenses, representations, or promises,—shall, for the purpose of executing such scheme or artifice or attempting so to do, place, or cause to be placed, any letter,—in any postoffice,—of the United States, to be sent or delivered by the postoffice establishment of the United States, or shall take or receive any such therefrom,—shall be” punished as therein provided. To constitute an offense under the section you will observe that two elements are essential:

1. The devising by the defendant of a scheme or artifice to defraud; and [217]

2. The use of the United States mails, as set out in the section, for the purpose of executing or attempting to execute such scheme or artifice.

The indictment is in five counts, each count setting forth the same alleged scheme to defraud and averring that in furtherance thereof the defendant placed and caused to be placed in the postoffice establishment at San Francisco to be sent or delivered a certain letter which is therein set out.

The letter set out in the first count is averred to have been addressed by defendant to Mr. John Bam-

mer, Colusa, California; the second to J. P. Mills-
paugh, at Cherry Creek, Nevada; the third to George
R. Alberts, at Tombstone, Arizona; the fourth to
Anson Ashford at Buckley, Washington; and the
fifth to John Caroway at Oroville, California. All
of these letters have been read to you, and may be
found in the indictment, but because of their length
have not been here repeated. Certain other letters
not set out in the indictment have been admitted in
evidence. The jury will only consider these letters
for the purpose of showing, if they do show, the in-
tent with which the acts set forth in the indictment
were committed, if you find that they were com-
mitted as charged. The jury will not consider these
other letters for the purpose of determining whether
or not the acts set out in the indictment were actually
committed, but only for the purpose of determining
the intent with which they were committed, if you
find from the other evidence that they were in fact
committed. If you find that a scheme to defraud as
set out in the indictment was devised, and that for
the purpose of executing such scheme or attempting
to do so there was placed or caused to be placed in
the United States mails as averred, to be sent or de-
livered by the postoffice establishment, the letters or
any one or *more them* set out in the indictment it
is not material that such letter or letters was ad-
dressed to fictitious person, and sent in response to
test letters [218] to decoy letters sent them by the
Postoffice Inspectors. It is the business of the exe-
cutive officers of the government to see that this law

is enforced. And when the Postoffice Department, through its representatives, in the discharge of their duty learn or suspect that any scheme *or defraud* is being operated through the United States mails, it is their duty to see that the fraud is uncovered and the officers of the United States Government, if their purpose was to uncover a scheme to defraud in the prosecution of the case, and the officers of the United States Department of Justice in aiding them, are simply performing a duty that is placed upon them by the laws of the country.

Now, the scheme as set forth in the indictment, and stripped of the accompanying legal verbiage is substantially that the defendant should by means of certain advertisements, letters, circulars and pamphlets induce certain persons named in the indictment and others to the grand jurors unknown to communicate with one Dr. Jordan, who was not a real or existing person, relative to real or supposed ailments, and that defendant should then, by means of letters and through the postoffice department, and irrespective of any symptoms communicated, and even in cases where the symptoms indicated health rather than disease, and without any real knowledge of the condition of the person so induced to communicate, state to such person that he was afflicted with a disease which he, Dr. Jordan, could cure, and that he would furnish treatment for such disease for a certain sum of money, and by means of such letters would induce such persons to send money for the purpose of procuring medicine and treatments skill-

fully and properly designed and prepared for the cure of the disease with which such person was afflicted, or had been induced to believe himself afflicted, which money he would fraudulently convert to his own use, and in return therefor should send to such person certain medicines of little or no value, and not medicine and treatment skillfully and properly [219] designed and prepared for the cure of such person, the defendant having no real or proper knowledge of such person's condition, or whether he was diseased or not, or whether or not such purported medicine was capable of benefiting such person, as he well knew.

It is not essential to warrant a conviction that the alleged scheme to defraud should be proved exactly and in all the details as alleged, but it is sufficient if it be proved beyond a reasonable doubt, substantially as alleged, and in determining this fact you have a right to view and consider all the evidence in the case in the light of your own experience and common sense. You will consider the correspondence admitted in evidence, the various symptom blanks and their accompanying letters, the testimony of the doctors in relation thereto, whether or not, under the evidence, such blanks and letters showed no condition of disease, and whether or not those connected with the Jordan corporation knew that to be the fact, and whether or not the accompanying correspondence was intended to lead the persons sending letters and symptom blanks to believe that they were suffering from disease which the said Dr. Jordan

could cure, when such was not the fact, and whether or not those at the institution knew from the letters and symptom blanks that such was not the fact; and from all of these matters, as you may find them to exist, and such other circumstances as are in evidence, you will determine whether or not there was in existence a scheme to defraud, substantially as set out in the indictment. Nor is *it all* essential to the commission of the offense charged that any person should actually have been defrauded. It is sufficient for a completed offense that a scheme substantially as alleged in the indictment was devised; that the same was, and was intended to be a scheme to defraud, and that in furtherance thereof the letters or some of them were sent through the United States mails to be delivered; whether such scheme was successfully carried [220] out or not. You will therefore determine whether there was devised a scheme to defraud, substantially as set out in the indictment, and whether the mails were used as alleged in furtherance thereof. If you find both of these elements of the offense to exist, then you will determine what, if anything, the defendant had to do with it. And in determining this you will bear in mind that it is not necessary to warrant a conviction that the defendant himself should have personally done the things charged. But it is sufficient to warrant such conviction, if you find that the offense was actually committed by others, that the defendant, either aided, abetted, counseled, commanded, induced or procured such commission. Nor should the jury be at all influenced, in passing upon the facts of this

case, by any belief that some other person or persons should have been indicted for the same offense. If the defendant has been shown to be guilty beyond a reasonable doubt, your verdict should so declare, notwithstanding the omission from the indictment of any other persons whom you may believe to have been guilty.

In order to render an officer of a corporation personally liable in a criminal action for the acts of the corporation, such officer must have participated in some way as heretofore explained, in such criminal act. The mere performance of the duties of secretary of a corporation or the acceptance of dividends, or both combined, cannot render an officer of a corporation criminally liable for an act committed by another of which he had no information or knowledge before its commission.

A principal is never liable criminally for the act of his agent unless committed by the direct command of the principal or with his consent. But consent which will render the principal liable for the act of his agent must be consent based on a knowledge of the act about to be committed by the agent. It must be shown here in order to warrant a conviction that defendant had knowledge [221] of the fraud, if you find that fraud was committed, and that having such knowledge, he either actually participated in the offense, or as stated, aided, abetted, counseled, commanded, induced or procured such commission. The mere opportunity to have knowledge without further circumstances, is not equivalent to actual knowledge, but in passing upon this phase of the

case, you must consider all the circumstances as shown here, including the opportunity for knowledge. You are not, however, permitted to infer guilty knowledge of an officer of a corporation or impute such knowledge to him from the fact alone that certain employees did in fact violate the law, and you cannot infer that the defendant knew of any infraction of the criminal law in this case from the fact alone that certain of the employees of the Jordan Museum did in fact commit the acts charged in the indictment in this case. But in this connection you will consider all the evidence introduced at the trial; the defendant's long connection with the establishment, his frequent presence at the place of business, the activity of the defendant whatever it was, in and about the said place of business; the possibility or impossibility of one long connected with the institution being ignorant of what was actually going on in the establishment, or of its methods of doing business, and in all the matters submitted to you you will view the case, in the light of your own experience and common sense.

You are the exclusive judges of the credibility of the witnesses and the weight to be given to their testimony, and you are not bound to decide in conformity with the declarations of any number of witnesses whose testimony does not produce conviction in your minds as against a less number, or presumption of law, or other evidence satisfying to your minds. The party accused is entitled to the presumption of innocence and it is a rule which you are bound to follow in this case that the guilt of the de-

fendant must be [222] proven beyond all reasonable doubt before you can convict him of the crime charged in the indictment.

Where circumstances alone are relied upon for conviction, the rule of law is, that to warrant conviction, such a state of facts and circumstances must be shown that they are all consistent with the guilt of the defendant and such as cannot upon any reasonable theory and hypothesis be true and the defendant be innocent and in this case the rule should be applied by the jury to that portion of the evidence offered by the Government wholly of a circumstantial nature. It is not necessary for the defendant to prove his innocence but the burden rests upon the prosecution to establish every element of the crime with which he is charged, and every element of the crime must be established to a moral certainty and beyond all reasonable doubt. Mere probabilities or suspicions or surmises are not sufficient to warrant a conviction, nor is it sufficient that the greater weight or preponderance of the evidence supports the allegations of the indictment, nor is it sufficient that upon the doctrine of chances it is more probable that the defendant is guilty than innocent.

While before you can find the defendant guilty of the charge in the indictment, the evidence must satisfy you as to his guilt beyond a reasonable doubt, yet you will understand from this that the Government is called upon to make a case free from any possible doubt, that is, to prove the defendant's guilt, to an unassailable demonstration. Such is not the law, for such proof is rarely obtainable in dealing

with human transactions; in other words, the doubt which will justify your hesitation must be based in reason and arise upon the evidence, and not consist of mere fanciful hesitation growing out of your sympathies or based upon something other than a fair and impartial consideration of the evidence in the case. The term reasonable doubt means just what its language imports. [223] To be a reasonable doubt it must be based upon reason. There is hardly anything relating to human affairs that is not open to some possible or fanciful or imaginary doubt. More possible or fanciful or imaginary doubts are not reasonable doubts. A reasonable doubt is that state of the case which, after the entire comparison and examination of all the facts and circumstances leaves the minds of the jurors in that condition that they cannot say that they feel an abiding conviction to a moral certainty of the truth of the charge, and no juror should vote for conviction so long as he entertains such reasonable doubt.

It takes the concurrence of all of you to agree on a verdict, and if you so agree you will have the verdict signed by your foreman and returned into court.

The above and foregoing contains all of the evidence of any and every character given, and all of the proceedings had upon the entire trial of this cause; and all of the instructions of the Court to the jury; and all of the proceedings had and all of the evidence given upon defendant's motion for a new trial thereof; and all of the proceedings relating to the judgment and sentence pronounced and imposed upon the defendant herein.

And, now, within the time allowed by law and the rules and orders of this Court, duly and regularly made in this behalf, the defendant Gideon M. Freeman hereby proposes the above and foregoing as and for his Bill of Exceptions upon Writ of Error herein, and prays that the same be settled, allowed, signed and authenticated by this Court as in proper form and as conforming to the truth and as the true Bill of Exceptions herein, and that it be made a part of the record in this cause.

Dated at San Francisco, California, this 25th day of August, 1915.

CHARLES H. FAIRALL,
Attorney for Defendant.

KNIGHT & HEGGERTY,
Of Counsel. [224]

*In the District Court of the United States, for the
Northern District of California, First Division.*

No. 5686.

THE UNITED STATES OF AMERICA,
Plaintiff,

vs.

GIDEON M. FREEMAN,
Defendant.

**Notice of Presentation to Plaintiff of Defendant's
Proposed Bill of Exception.**

To the UNITED STATES OF AMERICA, Plaintiff, and To Its Attorney, JOHN W. PRESTON, Esq., and its Assistant Attorney, WALTER B. HETTMAN:

YOU WILL PLEASE TAKE NOTICE that the above and foregoing constitutes and is the Proposed Bill of Exceptions of the Defendant GIDEON M. FREEMAN, upon his Writ of Error in the above-entitled cause, and that said defendant will apply to the above-entitled Court to settle, allow, sign and authenticate the same as in proper form and as conforming to the truth and as to the true Bill of Exceptions herein, and to make it a part of the record in this cause.

Dated at San Francisco, California, this 25th day of August, 1915.

CHARLES H. FAIRALL,
Attorney for Defendant.

KNIGHT & HEGGERTY,
Of Counsel.

Due and legal service of the above and foregoing Proposed Bill of Exceptions by Copy is hereby admitted this 25th day of August, 1915.

JNO. W. PRESTON,
Attorney for Plaintiff. [225]

*In the District Court of the United States, for the
Northern District of California, First Division.*

No. 5686.

THE UNITED STATES OF AMERICA,

Plaintiff,

vs.

GIDEON M. FREEMAN,

Defendant.

Stipulation as to Bill of Exceptions.

IT IS HEREBY STIPULATED AND AGREED by and between the respective parties hereto that the above and foregoing Proposed Bill of Exceptions upon Writ of Error herein has been presented within the time allowed by law and the rules and orders of this Court duly and regularly made in this behalf, and that the same is in proper form and conforms to the truth, and that it may be settled, allowed, signed and authenticated by this Court as the true Bill of Exceptions herein, and that it may be made part of the record in this cause.

Dated at San Francisco, California, this 15th day of October, 1915.

JNO. W. PRESTON,

Attorney for the Plaintiff.

CHARLES H. FAIRALL,

Attorney for the Defendant.

*In the District Court of the United States, for the
Northern District of California, First Division.*

No. 5686.

THE UNITED STATES OF AMERICA,
Plaintiff,

vs.

GIDEON M. FREEMAN,
Defendant.

**Order Settling, Allowing, Signing and Authenticat-
ing Proposed Bill of Exceptions and Making
the Same Part of the Record.**

The above and foregoing Bill of Exceptions duly proposed [226] by the defendant, and duly agreed upon by the respective parties hereto, having been presented to the Court within the time allowed and required by law and the rules and orders of this Court duly and regularly made in that behalf, is hereby settled, allowed, signed and authenticated as in proper form and as to conforming to the truth and as the true Bill of Exceptions herein, and is hereby made a part of the record in this cause.

Dated at San Francisco, California, this 15 day of October, 1915.

M. T. DOOLING,
Judge of the District Court of the United States, for
the Northern District of California.

Due service of the within Bill of Exceptions is hereby admitted this 15th day of October, 1915.

JNO. W. PRESTON,
Attorney for the Plff.

[Endorsed]: Lodged Aug. 25, 1915. W. B. Maling, Clerk. By C. W. Calbreath, Deputy Clerk. Filed Oct. 15, 1915. W. B. Maling, Clerk. By Lyle S Morris, Deputy Clerk. [227]

*In the District Court of the United States, for the
Northern District of California, First Division.*

No. 5686.

THE UNITED STATES OF AMERICA,

Plaintiff,

vs.

DR. GIDEON M. FREEMAN,

Defendant.

Petition for Writ of Error.

Now comes Dr. Gideon M. Freeman, the defendant herein, and brings this his Petition for a Writ of Error to the District Court of the United States, for the Northern District of California, and respectfully shows:

That on the 15th day of May, 1915, there was rendered and entered in the above-entitled court a Judgment and Sentence against him, the above-named defendant, whereby the defendant was adjudged and sentenced to be imprisoned for the term of one year in the county jail of the County of Alameda, State of California, and to pay a fine of one thousand dollars; in which judgment and sentence against said defendant, and in the proceedings had thereunto in this cause, certain errors were committed to the prejudice of said above-named defendant, all of

which will more in detail appear from the Assignment of Errors which is filed with this Petition.

WHEREFORE said above-named defendant prays that a Writ of Error may be issued in his behalf out of the United States Circuit Court of Appeals for the Ninth Circuit, for the correction [228] of the errors so complained of, and that a Transcript of the record, proceedings and papers in this cause, duly authenticated, may be sent to the said Circuit Court of Appeals, and that all further proceedings in the above-entitled District Court be suspended, stayed and superseded, and that sentence and execution herein be stayed until the final disposition of said Writ of Error in said United States Circuit Court of Appeals, for the Ninth Circuit.

Dated October 21st, 1915.

KNIGHT & HEGGERTY,

Attorneys for Petitioner.

Due service and receipt of a copy of the within Petition for Writ of Error is hereby admitted this 22d day of October, 1915.

JNO. W. PRESTON,

United States Attorney, Attorney for Plaintiff.

[Endorsed]: Filed Oct. 22, 1915. W. B. Maling,
Clerk. By T. L. Baldwin, Deputy Clerk. [229]

*In the District Court of the United States, for the
Northern District of California, First Division.*

No. 5686.

THE UNITED STATES OF AMERICA,

Plaintiff,

vs.

DR. GIDEON M. FREEMAN,

Defendant.

Assignment of Errors.

Now comes the defendant Gideon M. Freeman, in the above-entitled cause, and, in connection with his Petition for a Writ of Error herein, makes the following Assignment of Errors which he avers occurred upon the trial of said cause, to wit:

1. That the Court erred in overruling the Demurrer of the defendant herein to the Indictment herein.

2. That the Court erred in rendering and giving Judgment against the defendant herein for the reason that the Indictment found against the defendant and upon which he was tried, found guilty and said judgment and sentence of the Court rendered and imposed against him, does not state or set forth sufficient facts to constitute an offense under the Laws of the United States.

3. That the Court erred in sentencing said defendant for the same reason last stated.

4. That the Court erred in rendering Judgment and imposing sentence upon said defendant, for the reason that said judgment and sentence and the ver-

dict of the jury herein upon which said judgment and sentence were based were not supported [230] by the evidence introduced herein.

5. The Court erred in overruling the objection of the defendant to the witness G. A. Leonard reading to the jury the Government's Exhibit "A," until it had been shown that the defendant was in some way connected with the writing of it; and also in denying the motion to strike out said exhibit as irrelevant, incompetent and hearsay and had in no way been connected with the defendant or the Jordan Museum or with Dr. Jordan or any party connected with the case; and also in overruling similar objections and denying similar motions to strike out each one of the letters offered and admitted in evidence, being papers known as Government's Exhibit "A," during the examination and testimony of said witness G. A. Leonard, and each one of the letters and papers in the file of correspondence known and marked as Government's Exhibit "B," admitted in evidence during the testimony of the same witness; and in admitting in evidence the letter United States Exhibit 2 and the package marked United States Exhibit No. 3; the said letters, papers and correspondence, being the correspondence stated by said witness to be the "Test Correspondence."

6. The Court erred in overruling the same objection as last stated to the contents of the file exhibit "C" for identification, and in denying the motion to strike out the same.

7. The Court erred in overruling the objection of the defendant to the testimony of the witness H. C. Walker as to the correspondence he had with the Jordan Museum introduced for the purpose of showing a similar offense, upon the ground that similar offenses could not be shown until some offense had been shown against the defendant, and is irrelevant and incompetent, and allowing said correspondence to be introduced in evidence; and in overruling the objections as immaterial, as to how said witness came [231] to give the letters in said package to the Postal Inspectors, and in allowing the testimony of the said witness as to what he did, and what was done to and with the witness, and what was said and done by him and others; and in denying the motion of defendant to strike out all of the testimony of the witness as to said matters on the ground that it did not show a certainty in this—that the evidence shows that this man took the treatment in person, and after a personal examination and there is no similarity between the cases at all; and allowing in evidence the letters testified to as said witness H. C. Walker; and also in denying the motion of the defendant to strike out all of the testimony of the said witness and also the said letters; the said documents and letters being marked United States Exhibit No. 8.

8. The Court erred in overruling the objection of defendant to the testimony of the witness Edward Boerner as to what was done by defendant prior to 1910; and the Court erred in denying each of the motions to strike out portions of said testi-

mony and in overruling the objections of defendant to the evidence of the said witness, and in overruling each of the objections of defendant to the testimony of the said witness.

9. The Court erred in overruling the objection of the defendant to the contents of Government's Exhibit 11.

10. The Court erred in overruling the objections to the Minutes of the Corporation during the evidence of the witness Burn and to the contents of the said Minutes and especially to anything that occurred after the last letter set out in the Indictment, namely; August 13, 1913.

11. The Court erred in denying the motion of defendant to strike out all of the testimony upon the ground that it in no way connected the defendant with the commission of the [232] alleged offense and that it did not show that the defendant sent any of the letters mentioned in the Indictment or knew of them being sent, or ever heard that they had been sent, made by the counsel for the defendant at the conclusion of the testimony of the witness L. F. Kebler, who was called as a witness on behalf of the Government.

12. The Court erred in denying the motion of the defendants made at the conclusion of the case of the United States, upon the same grounds as stated in the motion to strike out last mentioned, that the case be taken from the jury for the reason that none of the acts charged in the Indictment had been shown and that there was no evidence which in the slightest degree tended to support the claim of the

prosecution that the defendant was in any way connected with the commission of the offense.

13. The evidence introduced in this case on behalf of the Government was and is absolutely insufficient to sustain or justify the verdict of the jury finding defendant guilty, or to sustain or justify the judgment of the Court and sentence imposed upon the defendant; and the Court erred in rendering and giving the said judgment and sentence of fine and imprisonment against the defendant.

14. There is no evidence in this case that this defendant was in the active or actual conduct of the business of said corporation, or did any of the acts and things shown by the evidence, or that he acted or participated in the said business or the conduct thereof, or had anything whatever to do therewith or any control or direction thereof, in any way or manner, and was solely and only a stockholder in the said corporation and received dividends upon his stock therein as such stockholder; and the Court erred in imposing and giving said judgment and sentence against [233] defendant.

15. There is no evidence that defendant ever entered into, or had devised or did devise or intend to devise any scheme or artifice to defraud, etc., as charged in the Indictment; or devised the said scheme or artifice, or that the same was a scheme or artifice under said section 215 of the Criminal Code, or used the United States Mails for the purpose of executing or attempting to execute the said or such scheme or artifice.

WHEREAS, by the law of the land, said Judgment ought to be given for said Dr. Gideon M. Freeman, plaintiff in error, and against the United States of America, defendant in error, said plaintiff in error, does now pray the Judgment herein rendered against him to be reversed and annulled and altogether held for nothing, and the sentence herein imposed upon him to be set aside and held for naught, and that he be restored to all things which he has lost by occasion of the said Judgment, and that he be afforded such and any and all other relief as may be meet in the premises herein.

Dated at San Francisco, California, October 21st, 1915.

KNIGHT & HEGGERTY,
Attorneys for Said Defendant, Dr. Gideon M. Freeman.

Due service and receipt of a copy of the within Assignment of Errors is hereby admitted this 22 day of October, 1915.

JNO. W. PRESTON,
United States Attorney.

[Endorsed]: Filed Oct. 22, 1915. W. B. Maling,
Clerk. By T. L. Baldwin, Deputy Clerk. [234]

*In the District Court of the United States, for the
Northern District of California, First Division.*

No. 5686.

DR. GIDEON M. FREEMAN,

Plaintiff in Error,

vs.

THE UNITED STATES OF AMERICA,

Defendant in Error.

Order Allowing Writ of Error and Supersedeas.

In the above-entitled cause the Petition of the defendant in said cause for a Writ of Error is hereby granted and allowed, and IT IS ORDERED that a Writ of Error be, and the same hereby is, allowed to have removed in the United States Circuit Court of Appeals, the Judgment heretofore entered herein, and that the said Writ of Error shall operate as a Supersedeas; and that the said defendant, Dr. Gideon M. Freeman be and he hereby is admitted to bail upon the said Writ of Error in the sum of \$1000.

It is further ordered that the Bond for costs upon the said Writ of Error be and hereby is fixed at the sum of \$500.

M. T. DOOLING,

United States District Judge.

Due service of the foregoing Order, by copy, is hereby admitted this 22d day of October, 1915.

JNO. W. PRESTON,

United States Attorney.

[Endorsed]: Filed Oct. 22, 1915. W. B. Maling, Clerk. By T. L. Baldwin, Deputy Clerk. [235]

Bond on Writ of Error for Costs.

KNOW ALL MEN BY THESE PRESENTS, That we, Gideon M. Freeman, as principal, and United States Fidelity and Guaranty Co., as sureties, are held and firmly bound unto The United States of America in the full and just sum of Five hundred (500) dollars, to be paid to the said United States of America, certain attorney, executors, administrators or assigns; to which payment, well and truly to be made, we bind ourselves, our heirs, executors and administrators, jointly and severally, by these presents.

Sealed with our seals and dated this 11th day of November, in the year of our Lord one thousand nine hundred and fifteen.

WHEREAS, lately at a District Court of the United States for the Northern District of California, First Division, in a suit depending in said court, between the United States of America and Gideon M. Freeman a Judgment of guilty was rendered against the said Gideon M. Freeman and the said Gideon M. Freeman having obtained from said Court a writ of error to reverse the Judgment in the aforesaid suit, and a citation directed to the said United States of America citing and admonishing it to be and appear at a United States Circuit Court of Appeals for the Ninth Circuit, to be holden at San Francisco, in the State of California.

NOW, the condition of the above obligation is such, That if the said Gideon M. Freeman shall

prosecute his writ of error to effect, and answer all damages and costs if he fail to make his plea good, then the above obligation to be void; else to remain in full force and virtue.

G. M. FREEMAN. [Seal]

UNITED STATES FIDELITY & GUAR-
ANTY CO., [Seal]

A Corporation Organized Under the Laws of the
State of Maryland.

By BRADLEY CARR,
Attorney-in-fact.

Acknowledged before me the day and year first
above written.

[Seal] FRANCIS KRULL,
United States Commissioner, North. Dist. of Cali-
fornia.

[Endorsed]: Filed Nov. 11, 1915. W. B. Maling,
Clerk. By C. W. Calbreath, Deputy Clerk. [236]

**Bond to Appear Pending Determination of Writ of
Error.**

United States of America,
Northern District of California,—ss.

BE IT REMEMBERED, That on this 11th day of
November, in the year of our Lord one thousand
nine hundred and fifteen before the undersigned,
a United States Commissioner, duly appointed by the
District Court of the United States for the Nor-
thern District of California, First Division, to take
acknowledgments of bail and affidavits, and also to
take depositions of witnesses in civil causes depend-
ing in the courts of the United States, pursuant to

the Acts of Congress, in that behalf, personally appeared Gideon M. Freeman, as principal, and United States Fidelity and Guaranty Co. as sureties, and jointly and severally acknowledged themselves to be indebted to the United States of America in the sum of one thousand (1000) dollars separately to be levied and made out of their respective goods and chattels, lands and tenements to the use of the said United States.

The conditions of the above recognizance is such, that, whereas an indictment has been found by the Grand Jury of the United States for the Northern District of California, and filed on the 20th day of April, A. D. 1912, in the District Court of the United States, for said Northern District of California, First Division, charging the said Gideon M. Freeman with using the United States mails in furtherance of a scheme to defraud, committed on or about the 15th day of May, A. D. 1915, to wit, at the District aforesaid, contrary to the form of the statute of the United States, in such case made and provided.

And whereas a verdict of guilty as charged in the indictment was rendered on the 29th day of April, 1915, and on May 15th, 1915, [237] the Court sentenced said Gideon M. Freeman, the defendant, to be imprisoned in the Alameda County Jail, Alameda County, California, for the period of one (1) year, and to pay a fine of \$1000, and in default of its payment to be further imprisoned until said fine be paid, and whereas on October 22, 1915, the Court made its order admitting said defendant to

bail in the sum of \$1000, pending the determination of a writ of error herein allowed.

And whereas, the said Gideon M. Freeman has been required to give a recognizance, with sureties, in the sum of one thousand (1000) dollars for his appearance.

NOW, THEREFORE, If the said Gideon M. Freeman shall personally appear at the District Court of the United States, for the Northern District of California, First Division, to be holden at the courtroom of said court, in the City of San Francisco, when required at ten o'clock in the forenoon of that day, and afterwards whenever or wherever he may be required to answer the said indictment and all matters and said judgment and things that may be objected against him whenever the same may be prosecuted, and render himself amenable to any and all lawful orders and process in the premises, and not depart the said Court without leave first obtained and shall appear for judgment and render himself in execution thereof, and shall render himself amenable to any and all orders herein, then this recognizance shall be void, otherwise, to remain in full effect and virtue.

G. M. FREEMAN. [Seal]

UNITED STATES FIDELITY & GUAR-
ANTY CO., [Seal]

A Corporation Organized Under the Laws of the
State of Maryland.

By BRADLEY CARR. [Seal]

Attorney in Fact.

Acknowledged before me the day and year first above written.

[Seal] FRANCIS KRULL,
United States Commissioner for the Northern District of California, at San Francisco.

[Endorsed]: Filed Nov. 11, 1915. W. B. Maling, Clerk. By C. W. Calbreath, Deputy Clerk. [238]

In the District Court of the United States, in and for the Northern District of California, First Division.

No. 5686.

THE UNITED STATES OF AMERICA,
Plaintiff,
vs.
DR. GIDEON M. FREEMAN,
Defendant.

Stipulation Enlarging Time of Defendant to and Including December 20th, 1915, to File Record and Docket Cause.

IT IS HEREBY STIPULATED AND AGREED by and between the respective parties hereto, that the time of the defendant herein, Dr. Gideon M. Freeman for filing the record hereof and docketing this case on Writ of Error from the United States Circuit Court of Appeals for the Ninth Circuit to the District Court of the United States for the Northern District of California, may be enlarged to and including the 20th day of December, 1915.

JNO W. PRESTON,
United States Attorney.
KNIGHT & HEGGERTY,
Attorneys for Defendant. [239]

*In the District Court of the United States, in and for
the Northern District of California, First Division.*

No. 5686.

THE UNITED STATES OF AMERICA,
Plaintiff,

vs.

DR. GIDEON M. FREEMAN,
Defendant.

**Order Extending Time to December 20, 1915, to File
Record and Docket Cause.**

Now, on this day, for good cause shown and pursuant to the foregoing Stipulation,—

IT IS HEREBY ORDERED that the time of the defendant herein Dr. Gideon M. Freeman for filing the record hereof and docketing this case on Writ of Error from the United States Circuit Court of Appeals for the Ninth Circuit to the District Court of the United States for the Northern District of California, be and the same hereby is enlarged to and including the 20th day of December, 1915.

Dated November 19th, 1915.

M. T. DOOLING,
Judge.

[Endorsed]: Filed Nov. 19, 1915. W. B. Maling,
Clerk. By C. W. Calbreath, Deputy Clerk. [240]

*In the District Court of the United States, in and for
the Northern District of California, First Division.*

No. 5686.

UNITED STATES OF AMERICA,

Plaintiff,

vs.

DR. GIDEON M. FREEMAN,

Defendant.

**Stipulation for Order Extending Time to January 5,
1916, to File Record and Docket Cause.**

IT IS HEREBY STIPULATED AND AGREED
by and between the respective parties hereto, that
the time of the defendant herein Dr. Gideon M.
Freeman for filing the record hereof and docketing
this case on Writ of Error from the United States
Circuit Court of Appeals for the Ninth Circuit to
the District Court of the United States for the Nor-
thern District of California, may be enlarged
to and including the Fifth day of January, 1916.

JNO W. PRESTON,

United States Attorney.

KNIGHT & HEGGERTY,

Attorneys for Defendant. [241]

*In the District Court of the United States in and for
the Northern District of California, First Division.*

No. 5686.

THE UNITED STATES OF AMERICA,

Plaintiff,

vs.

DR. GIDEON M. FREEMAN,

Defendant.

**Order Extending Time to January 5, 1916, to File
Record and Docket Cause.**

Now, on this day, for good cause shown and pursuant to the foregoing Stipulation,—

IT IS HEREBY ORDERED that the time of the defendant herein Dr. Gideon M. Freeman for filing the record hereof and docketing this case on Writ of Error from the United States Circuit Court of Appeals for the Ninth Circuit to the District Court of the United States for the Northern District of California be, and the same hereby is enlarged to and including the fifth day of January, 1916.

Dated December 20th, 1915.

M. T. DOOLING,
Judge.

[Endorsed]: Filed Dec. 20, 1915. W. B. Maling,
Clerk. By C. W. Calbreath, Deputy Clerk. [242]

Certificate of Clerk to Transcript on Writ of Error.

I, W. B. Maling, Clerk of the District Court of the United States of America, for the Northern District of California, do hereby certify that the foregoing 242 pages, numbered from 1 to 242, inclusive, contain a full, true, and correct Transcript of certain records and proceedings, in the case of the United States of America, vs. Gideon M. Freeman, numbered 5686, as the same now remain on file and of record in the office of the clerk of said District Court; said Transcript having been prepared pursuant to and in accordance with the "Praeceptum" (copy of which is embodied in this Transcript), and the instructions of the attorneys for defendant and appellant herein.

I further certify that the costs for preparing and certifying the foregoing Transcript on Writ of Error is the sum of one hundred thirty-four dollars and sixty cents (\$134.60), and that the same has been paid to me by the attorneys for plaintiff in error herein.

Annexed hereto is the Original Citation on Writ of Error (page 248), and the Original Writ of Error (page 244), with the Return of the said District Court to said Writ of Error attached thereto (page 247.)

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of said District Court, this 5th day of January, 1916.

[Seal]

W. B. MALING,
Clerk.

By T. L. Baldwin,
Deputy Clerk. [243]

[Ten Cent Documentary Stamp. Canceled
1/5/16. T. L. B.]

*In the District Court of the United States, for the
Northern District of California, First Division.*

No. 5686.

DR. GIDEON M. FREEMAN,
Plaintiff in Error,

vs.

THE UNITED STATES OF AMERICA,
Defendant in Error.

Writ of Error.

United States of America,—ss.

The President of the United States of America, to the Honorable, the Judges of the District Court of the United States, for the Northern District of California, Greeting:

BECAUSE, in the record and proceedings, as also in the rendition of the judgment of a plea which is in the said District Court, before the Honorable MAURICE T. DOOLING, one of you, between the United States of America, plaintiff and defendant in error, and Dr. Gideon M. Freeman, defendant and plaintiff in error, a manifest error hath happened, to

the great damage to the said plaintiff in error, as by his Complaint appears :

We, being willing that error, if any hath been, should be duly corrected, and full and speedy justice done to the party aforesaid in this behalf, do command you, if judgment be therein given, that then, under your seal, distinctly and openly, you send the record and proceedings aforesaid, with all things concerning the same to the United States Circuit Court of Appeals for the Ninth Circuit, together with this writ, so that you have the same at the City of San Francisco, in the State of California, within [244] thirty days from the date hereof, in the said Circuit Court of Appeals, to be then and there held, that the record and proceedings aforesaid being inspected, the said Circuit Court of Appeals may cause further to be done therein to correct that error, what of right and according to the laws and customs of the United States, should be done.

WITNESS, the Honorable EDWARD DOUGLASS WHITE, Chief Justice of the United States, this 22 day of October, in the year of our Lord one thousand nine hundred and fifteen.

W. B. MALING,
Clerk U. S. District Court.

By Lyle S. Morris,
Deputy Clerk.

Allowed by
[Seal]

M. T. DOOLING,
United States District Judge.

Service of the above Writ of Error made this 22 day of October, 1915, upon the District Court of the

United States for the Northern District of California, by filing with me, the clerk of said court, ~~a duly certified copy of~~ said Writ of Error *to a copy thereof*.

W. B. MALING,

Clerk of the District Court of the United States, for
the Northern District of California.

By Lyle S. Morris,

Deputy Clerk. [245]

Due service and receipt of a copy of the within Writ of Error is hereby admitted this 22d day of October, 1915.

JNO. W. PRESTON,

U. S. Attorney, and Attorney for Plaintiff.

[Endorsed]: No. 5686. First Division. District Court of the United States, Northern District of California. Dr. Gideon M. Freeman, Plaintiff in Error, vs. The United States of America, Defendant in Error. Writ of Error. Filed Oct. 22, 1915. W. B. Maling, Clerk. By T. L. Baldwin, Deputy Clerk. [246]

Return to Writ of Error.

The answer of the Judges of the District Court of the United States of America, for the Northern District of California, to the within Writ of Error.

As within we are commanded, we certify under the seal of our said District Court, in a certain schedule to this Writ annexed, the record and all proceedings of the plaint whereof mention is within made, with all things touching the same, to the United States Circuit Court of Appeals, for the Ninth Circuit,

within mentioned, at the day and place within contained.

We further certify that a copy of this Writ was on the 19th day of November, A. D. 1915, duly lodged in the case in this court for the within named defendant in error.

By the Court:

[Seal]

W. B. MALING,

Clerk United States District Court, Northern District of California.

By T. L. Baldwin,

Deputy Clerk.

[Ten Cent Documentary Stamp. Canceled 1/5/16.

T. L. B.] [247]

In the District Court of the United States, for the Northern District of California, First Division.

No. 5686.

DR. GIDEON M. FREEMAN,

Plaintiff in Error,

vs. .

THE UNITED STATES OF AMERICA,

Defendant in Error.

Citation on Writ of Error.

United States of America,—ss.

The President of the United States, to the United States of America, and to JOHN W. PRESTON, Esquire, United States Attorney for the Northern District of California, Greeting:

You are hereby cited and admonished to be and

appear at a United States Circuit Court of Appeals for the Ninth Circuit, to be holden at the City of San Francisco, in the State of California, within thirty days from the date hereof, pursuant to a Writ of Error duly issued and now on file in the clerk's office of the United States District Court for the Northern District of California, wherein Dr. Gideon M. Freeman is plaintiff in error, and the United States of America is defendant in error, to show cause, if any there be, why the judgment rendered against the said plaintiff in error, as in the said Writ of Error mentioned, should not be corrected, and why speedy justice should not be done to the parties in that behalf.

WITNESS, the Honorable EDWARD DOUGLASS WHITE, Chief Justice of the United States, this 22d day of October, in the year of our Lord one thousand nine hundred and fifteen.

M. T. DOOLING,

United States District Judge.

[Seal]

Attest: W. B. MALING,

Clerk.

By Lyle S. Morris,

Deputy Clerk. [248]

[Endorsed]: No. 5686. First Division. District Court of the United States, Northern District of California. Dr. Gideon M. Freeman, Plaintiff in Error, vs. The United States of America, Defendant in Error. Citation on Writ of Error. Filed Oct. 22, 1915. W. B. Maling, Clerk. By T. L. Baldwin, Deputy Clerk.

Due service and receipt of the within Citation on

Writ of Error is hereby admitted this 22d day of October, 1915.

JNO. W. PRESTON,
United States Attorney.

[Endorsed]: No. 2734. United States Circuit Court of Appeals for the Ninth Circuit. Gideon M. Freeman, Plaintiff in Error, vs. The United States of America, Defendant in Error. Transcript of Record. Upon Writ of Error to the United States District Court of the Northern District of California, First Division.

Filed January 10, 1916.

F. D. MONCKTON,
Clerk of the United States Circuit Court of Appeals
for the Ninth Circuit.

By Meredith Sawyer,
Deputy Clerk.

*In the District Court of the United States for the
Northern District of California, First Division.*

No. 5686.

THE UNITED STATES OF AMERICA

vs.

GIDEON M. FREEMAN.

**Stipulation and Order Extending Time to January
10, 1916, to File Record and Docket Cause.**

It is hereby stipulated that the time for the defendant to file the record in said cause in the United States Circuit Court of Appeals for the Ninth Circuit, and within which to docket the said cause, be

and the same is hereby enlarged until and including the tenth day of January, 1916.

JNO. W. PRESTON,
United States Attorney.
KNIGHT & HEGGERTY,
Attorneys for Defendant.

Pursuant to the foregoing stipulation it is hereby ordered that the time of the defendant in the above-entitled action within which to file the record in said cause in the United States Circuit Court of Appeals, and within which to docket the said cause is hereby extended until and including the tenth day of January, 1916.

Dated January 5th, 1916.

M. T. DOOLING,
Judge.

[Endorsed]: No. 5686. In the District Court of the United States, Northern District of California. United States vs. Gideon M. Freeman. Stipulation and Order Enlarging Time to File Record and Docket Cause.

No. 2734. United States Circuit Court of Appeals for the Ninth Circuit. Order Under Rule 16 Enlarging Time to — to File Record Thereof and to Docket Case. Filed Jan. 5, 1916. F. D. Monckton, Clerk. Refiled Jan. 8, 1916. F. D. Monckton, Clerk.